CHAPTER 1 GENERAL

ARTICLE 1-1 HOW CODE DESIGNATED AND CITED

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

ARTICLE 1-2 CONSTRUCTION OF ORDINANCES

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

ARTICLE 1-3 DEFINITIONS

1-3-1 General Rule Regarding Definitions
1-3-2 Acts by Agents
1-3-3 Code
1-3-4 Council
1-3-5 Day
1-3-6 Daytime, Nighttime
1-3-7 Department, Board, Commission, Office, Officer or Employee
1-3-8 Gender; Singular and Plural
1-3-9 In the Town
1-3-10 Joint Authority
1-3-11 Month
1-3-12 Oath
1-3-13 Or, And
1-3-14 Person
1-3-15 Personal Property
1-3-16 Preceding, Following
1-3-17 Property
1-3-18 Real Property
1-3-19 Shall, May
1-3-20 Shall Have Been
1-3-21 Signature or Subscription by Mark
1-3-22 State
1-3-23 Tenant or Occupant
1-3-24 Tenses
1-3-25 Time--Computation
1-3-26 Time--Reasonable
1-3-27 Town
1-3-28 Week
1-3-29 Writing
1-3-30 Year

Section 1-3-1 General Rule Regarding Definitions

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

Section 1-3-2 Acts by Agents

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

Section 1-3-3 Code

The words "the code" or "this code" shall mean "The Code of the Town of Queen Creek, Arizona," unless the context indicates otherwise.

Section 1-3-4 Council

Whenever the word "council" is used, it shall be construed to mean the common council of the Town of Queen Creek, Arizona.

Section 1-3-5 Day

A "day" is the period of time between any midnight and the midnight following.

Section 1-3-6 Daytime, Nighttime

"Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Section 1-3-7 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.

Section 1-3-8 Gender; Singular and Plural

Words of the masculine gender include the feminine; words in the singular number include the plural and words in the plural number include the singular.

Section 1-3-9 In the Town

The words "in the town" or "within the town" shall mean and include all territory over which the town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

Section 1-3-10 Joint Authority

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

Section 1-3-11 Month

The word "month" shall mean a calendar month.

Section 1-3-12 Oath

"Oath" includes affirmation or declaration.

Section 1-3-13 Or, And

"Or" may be read "and," and "and" may be read "or," if the sense requires it.

Section 1-3-14 Person

The word "person" shall extend and be applied to firms, corporations or voluntary associations, as well as to individuals, unless plainly inapplicable.

Section 1-3-15 Personal Property

"Personal property" includes every species of property, except real property as defined in this article.

Section 1-3-16 Preceding, Following

The words "preceding" and "following" mean next before and next after, respectively.

Section 1-3-17 Property

The word "property" shall include real and personal property.

Section 1-3-18 Real Property

"Real property" shall include lands, tenements and hereditaments.

Section 1-3-19 Shall, May

"Shall" is mandatory and "may" is permissive.

Section 1-3-20 Shall Have Been

The words "shall have been" include past and future cases.

Section 1-3-21 Signature or Subscription by Mark

"Signature" or "subscription" includes a mark when the signer cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his 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.

Section 1-3-22 State

The words "the state" shall be construed to mean the State of Arizona.

Section 1-3-23 Tenant or Occupant

The word "tenant" or "occupant" applied to a building or land shall include any person holding a written or an oral lease or who occupies the whole or part of such building or land, either alone or with others.

Section 1-3-24 Tenses

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

Section 1-3-25 Time--Computation

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

Section 1-3-26 Time--Reasonable

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

Section 1-3-27

Whenever the word "town" is used, it shall be construed to mean the Town of Queen Creek, Arizona.

Section 1-3-28 Week

A "week" consists of seven consecutive days.

Section 1-3-29 Writing

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

Section 1-3-30 Year

The word "year" shall mean a calendar year, except where otherwise provided.

ARTICLE 1-4 CONFLICTING PROVISIONS

1-4-1 Additional Rules of Construction
1-4-2 References to this Code
1-4-3 Conflicting Provisions--Different Chapters
1-4-4 Conflicting Provisions--Same Chapter

Section 1-4-1 Additional Rules of Construction

In addition to the rules of construction specified in Articles 1-2 and 1-3, the rules set forth in this article shall be observed in the construction of this code.

Section 1-4-2 References to this Code

All references to chapters, articles or sections are to the chapters, articles and sections of this

code unless otherwise specified.

Section 1-4-3 Conflicting Provisions--Different Chapters

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

Section 1-4-4 Conflicting Provisions--Same Chapter

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

ARTICLE 1-5 SECTION HEADINGS

Headings of the several sections of this code are intended as a convenience to indicate the contents of the section and do not constitute part of the law, except to the extent necessary for construction or interpretation of the section.

ARTICLE 1-6 EFFECT OF REPEAL

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

ARTICLE 1-7 SEVERABILITY OF PARTS OF CODE

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

ARTICLE 1-8 PENALTY[1]

A. Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a Class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

B. Any violation of or failure or refusal to do or perform any act required by Chapter 11, Article 11-3 of this Code shall be penalized as provided in paragraph “A” of this Article 1-8. Any violation of or failure or refusal to do or perform any act required by any other article of Chapter 11 of this Code constitutes a civil traffic violation. Civil traffic violations are subject to the provisions of A.R.S. Title 28, Chapter 5, Articles 3 and 4, and amendments thereto.

[1]Ordinance 404-07

ARTICLE 1-9 REPEAL OF EXISTING ORDINANCES

1-9-1 Effective Date of Repeal
1-9-2 Ordinances Exempt from Repeal

Section 1-9-1 Effective Date of Repeal

All ordinances of the town except those specially exempted in this article, now in force and effect are hereby repealed effective at twelve o'clock noon on the thirtieth day of June, 1990, but all rights, duties and obligations created by said ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

Section 1-9-2 Ordinances Exempt from Repeal

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

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

B. Any ordinance making an appropriation.

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

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

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

F. Any bond of any public officer.

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

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

ARTICLE 1-10 EFFECTIVE DATE OF CODE

Each and every section of this code as herein contained and hereby enacted shall take effect and be in force on and after twelve o'clock noon on the thirtieth day of June, 1990, except that

where a later effective date is provided it shall prevail.

September 2007

CHAPTER 2 MAYOR AND COUNCIL

ARTICLE 2-1 COUNCIL

2-1-1 Elected Officers
2-1-2 Corporate Powers
2-1-3 Duties of Office
2-1-4 Vacancies in Council
2-1-5 Compensation
2-1-6 Oath of Office
2-1-7 Bond
2-1-8 Financial Disclosure Statement

Section 2-1-1 Elected Officers[1]

A. The elected officers of the town shall be a mayor and six council members. The mayor and council members shall constitute the common council and shall continue in office until assumption of duties of office by their duly qualified successors.

B. The mayor shall be directly elected every four years for a term of four years.

C. Council members shall serve four-year, overlapping terms.

Section 2-1-2 Corporate Powers

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

Section 2-1-3 Duties of Office

The mayor and members of the council shall assume the duties of their office at the first regularly scheduled council meeting in January following the election at which elected and as provided for in A.R.S. §16-642.

Section 2-1-4 Vacancies in Council

A. Vacancies will be filled as provided for in State Law.

Section 2-1-5 Compensation

The compensation of elective officers of the town shall be fixed from time to time by resolution of the council.

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[1]Ordinance 39-93

Ordinance 411-07 and voter approval March 11, 2008

Ordinance 538-13

Section 2-1-6 Oath of Office

Prior to assumption of the duties of office, the Mayor and each Council Member shall take and subscribe to the oath of office as provided for in A.R.S.§38-232 and acknowledge the receipt of the Council Policies and Procedures Handbook.

A. If appointed, at or before commencement of the term of office.

B. If elected, at any time after receiving the Officer's Certificate of Election, and at or before commencement of the term of office.

Section 2-1-7 Bond

Prior to taking office, each member of the council shall execute and file an official bond, enforceable against the principal and his sureties, conditioned on the due and faithful performance of his official duties, payable to the state and to and for the use and benefit of the town or any person who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity. Bonds shall be in such sum as shall be provided by resolution and the premium for such bonds shall be paid by the town. Nothing in this section shall preclude the town from obtaining a blanket bond as allowed or required by state law.

Section 2-1-8 Financial Disclosure Statement

Each member of the council shall file a financial disclosure statement at such times, in such form and with such information as provided by resolution of the council and pursuant to state law.

Ordinance 507-11

Ordinance 538-13

ARTICLE 2-2 MAYOR

2-2-1 Selection of Mayor
2-2-2 Vice Mayor
2-2-3 Acting Mayor
2-2-4 Powers and Duties of the Mayor
2-2-5 Absence of Mayor
2-2-6 Failure to Sign Documents

Section 2-2-1 Selection of Mayor

The Mayor shall be directly elected by the qualified electors of the city. The regular term of office for the Mayor shall be four years.

Section 2-2-2 Vice Mayor

Effective January 2017 at a meeting in January of each year, the Mayor shall nominate from among the members a Council Member to serve a one-year term as Vice-Mayor. The nomination shall be voted upon by the Mayor and Council.

The Vice Mayor shall perform the duties of the Mayor during any absence or disability of the Mayor.

The Vice Mayor shall assist the Mayor in the management of the council meeting agenda items.

Section 2-2-3 Acting Mayor

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

Section 2-2-4 Powers and Duties of the Mayor

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

A. He shall be the chief executive officer of the town.

B. He shall be the chairman of the council and preside over its meetings. He may make and second motions and shall have a voice and vote in all its proceedings.

C. He shall enforce the provisions of this code.

D. He shall execute and authenticate by his signature such instruments as the council or any statutes, ordinances or this code shall require.

E. He shall make such recommendations and suggestions to the council as he may consider proper.

F. He may, by proclamation, declare a local emergency to exist due to fire, conflagration, flood, earthquake, explosion, war, bombing or any other natural or man-made calamity or disaster or in the event of the threat or occurrence of riot, rout or affray or other acts of civil disobedience which endanger life or property within the town. After declaration of such emergency, the mayor shall govern by proclamation and impose all necessary regulations to preserve the peace and order of the town, including but not limited to:

   l. Imposition of a curfew in all or any portion of the town.

   2. Ordering the closing of any business.

   3. Closing to public access any public building, street or other public place.

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

G. He shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the town.

Section 2-2-5 Absence of Mayor

The mayor shall not absent himself from the town for a greater period than fifteen consecutive days without the consent of the council.

Section 2-2-6 Failure to Sign Documents

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

ARTICLE 2-3 ELECTIONS

2-3-1	Consolidated Election Dates
2-3-2	Primary Election
2-3-3	Non-Partisan Ballot
2-3-4	General Election Nomination
2-3-5	Election to Office
2-3-6	Candidate Financial Disclosure
2-3-7	Qualified Elector; Definition
2-3-8	Petition Circulators

Section 2-3-1 Consolidated Election Dates

All elections shall be held pursuant to A.R.S. §16-204, as amended.

Section 2-3-2 Primary Election

Any candidate 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 is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate; provided that if more candidates receive a majority than there are offices to be filled, those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected. A majority of votes cast shall be determined as set forth in A.R.S. § 9-821.01.

Section 2-3-3 Non-Partisan Ballot

Elections shall be non-partisan and nothing on the ballot in any election shall be indicative of the support of a candidate. Candidate's names shall appear on the ballot pursuant to the procedure set forth in A.R.S. §16-464, as amended.

Section 2-3-4 General Election Nomination

If at any primary election held as above provided there be any office for which no candidate is elected, then as to such office the primary election shall be considered to be a primary election for nomination of candidates for such office, and the general municipal election shall be held to vote for candidates to fill such office. Candidates to be placed on the ballot at the general municipal election shall be (A) those not elected at the primary election who received the

highest number of votes, and (B) 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. Persons who receive the highest number of votes for the respective offices at such first election shall be the only candidates at such second election, provided that if there be any person who, under the provisions of this article, 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 such persons receiving an equal number of votes shall likewise become candidates for such office.

Section 2-3-5 Election to Office

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

Section 2-3-6 Candidate Financial Disclosure

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

Section 2-3-7 Qualified Elector; Definition[1]

A. Every resident of the town is qualified to register and vote in town elections if he or she:

1. Is a citizen of the United States;

2. Will be eighteen years of age or more on or before the date of the next town election following registration;

3. Will have been a resident of the town and registered to vote prior to midnight of the twenty-ninth day preceding the date of the next town election;

4. Is able to write his or her name, or make a mark, unless prevented from doing so by physical disability;

5. Has not been convicted of treason or a felony, unless restored to civil rights; and

6. Has not been adjudicated an incapacitated person as defined by A.R.S. § 14-5101, or its successor statute.

B. For the purposes of this article, “resident” means an individual who has actual physical presence in the town, combined with an intent to remain. A temporary absence shall not result in a loss of residence if the individual has an intent to return following his or her absence. An individual has only one residence for purposes of this article.

Section 2-3-8 Petition Circulators

All circulators of nomination petitions for mayor or council member and all circulators of recall, referendum or initiative petitions or petitions for other measures, shall be qualified to register to vote in this state. Pursuant to A.R.S.§16-315, as amended, if the petition

[1] Amended by Ordinance 312-05

circulator is not a resident of the state, the petition circulator shall register as a circulator with the Secretary of State before circulating the petition.

ARTICLE 2-4 INITIATIVE AND REFERENDUM

2-4-1 Power Reserved; Time of Election[2]
2-4-2 Number of Signatures
2-4-3 Time of Filing
2-4-4 Sample Ballots and Publicity Pamphlets
2-4-5 Petition Circulators

Section 2-4-1 Power Reserved; Time of Election[2]

A. There is reserved to the qualified electors of the town the power of initiative and the referendum as prescribed by the state constitution, Arizona Revised Statutes and this code.

B. Any proper initiative matter shall be voted on by all qualified electors at the next ensuing town primary or general election pursuant to subsection A of Section 2-6-3**.**

C. That upon presentation of a certificate to the council by the town clerk that all steps required by the Arizona constitution and the state statutes concerning referendum have been complied with, the council may call a special election on the matter referred on any future consolidated election date as set forth in A.R.S. § 16-204 (B) as it exists now or as it may be amended. The special election must comply with all other provisions of law regarding elections.

D. The call of a special election for referendum matters shall be valid only upon the affirmative vote of four members of the council voting on said request and call. Should the required number of votes to call the special election not be obtained, then the referendum matter shall appear on the ballot at the next regular town primary or general election.

E. If a special election on a referendum matter is called for by the council pursuant to subsection D of this section, then in addition to all other notices required by law, the Town Clerk shall notify the person or organization that requested the referendum petition of the council decision by first class mail, postage prepaid at the address shown upon the request for referendum petition number.

[2] Amended by Ordinance 313-05

Section 2-4-2 Number of Signatures[1]

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

B. The basis for computing the number of signatures of qualified electors of the town required to file a referendum petition shall be determined by state law.

Section 2-4-3 Time of Filing[1]

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

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

Section 2-4-4 Sample Ballots and Publicity Pamphlets[1]

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 on:

A. A publicity pamphlet, containing the entire text of the official ballot, shall be mailed by the town clerk to each household within the town in which a registered voter resides before the earliest date for receipt by registered voters of any requested early ballot for the election at which the measure(s) are to be voted on but not less than 10 days before the election subject to State Law.

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

C. Arguments supporting and opposing propositions appearing on the ballot shall be filed with the office of the town clerk by 5:00 p.m. not less than ninety (90) days prior to the election at which the propositions are to be voted upon. If time does not permit compliance with the ninety (90) day deadline, the town clerk may establish a separate deadline for filing referendum ballot arguments. Arguments supporting or opposing propositions appearing on the ballot shall meet the following requirements:

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

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

3. Arguments may not exceed three hundred words in length.

[1] Amended by Ordinance 313-05
Ordinance 508-11

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

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

6. Each argument shall be accompanied by a deposit in the amount of $200.00 to offset proportional costs of printing. This requirement shall not be waived on any account.

SECTION 2-4-5 PETITION CIRCULATORS

All circulators of nomination petitions for mayor or council member and all circulators of recall, referendum or initiative petitions or petitions for other measures, shall be qualified to register to vote in this state pursuant to A.R.S.§16-315, as amended, if the petition circulator is not a resident of the state, the petition circulator shall register as a circulator with the Secretary of State before circulating the petition.

ARTICLE 2-5 COUNCIL PROCEDURE

2-5-1 Regular Meetings
2-5-2 Special Meetings
2-5-3 Meetings to Be Public
2-5-4 Quorum
2-5-5 Agenda
2-5-6 Consent Agenda
2-5-7 Order of Business; Proceedings of the Council
2-5-8 Committees and Commissions
2-5-9 Voting
2-5-10 Suspension of Rules

Section 2-5-1 Regular Meetings[1]

The council shall hold one regular meeting each month on the first Wednesday of each month at the hour of 5:30 p.m. Should the first Wednesday of the month fall on a day designated by law as a legal holiday, the meeting shall be held at the same hour on a day other than the legal holiday as determined by the mayor. All regular meetings of the town council shall be held at the Queen Creek Town Hall unless specifically designated in writing in all required public notices.

Section 2-5-2 Special Meetings

The mayor, upon his own motion, or the clerk, upon the written request of two members, may convene the council at any time by notifying the members of the date, hour and purpose of such special meeting, and by giving such additional notice as required by state law.

Section 2-5-3 Meetings to Be Public

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

Section 2-5-4 Quorum

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

Section 2-5-5 Agenda

Prior to each council meeting, or on or before a time fixed by the council for preparation and distribution of an agenda, whichever is earlier, the clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council, prepare an agenda according to the order of business and furnish each councilmember, the mayor and the attorney with a copy.

[1] Amended by Ordinance 30-93; Ordinance 570-15

Section 2-5-6 Consent Agenda

A. When any item of business requires action by the council, but is of a routine and noncontroversial nature, such item may be presented at a regular meeting of the council as part of a consent agenda.

B. The consent agenda shall be introduced by a motion "To approve the Consent Agenda," and shall be considered by the council as a single item.

C. There shall be no debate or discussion by any member of the council regarding any item on the consent agenda, beyond asking questions for simple clarification.

D. All items on the consent agenda which require public hearings shall be open for hearing simultaneously, and the mayor shall announce, or direct the town clerk to announce, the titles of all such items.

E. Upon objection by any member of the council to inclusion of any item on the consent agenda, that item shall be removed from the consent agenda forthwith. Such objections may be recorded at any time prior to the taking of a vote on the motion to approve the consent agenda. All such items shall be considered individually, in the order in which they were objected to, immediately following consideration of the consent agenda.

F. Approval of the motion to approve the consent agenda shall be fully equivalent to approval, adoption or enactment of each motion, resolution, ordinance or other item of business thereon, exactly as if each had been acted upon individually.

Section 2-5-7 Order of Business; Proceedings of the Council

A. The business of the council shall be taken up for consideration and disposition in an order set forth by the council.

B. The mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meetings in an orderly manner.

C. Petitions, remonstrances, communications and comments or suggestions from citizens present at town council meetings shall be heard by the council. All such remarks shall be addressed to the council as a whole, and not to any member thereof. Such remarks shall be limited to three minutes, unless additional time is granted by the council. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer. No question shall be asked a councilmember except through the presiding officer.

Section 2-5-8 Committees and Commissions

The council may create such committees and commissions, standing or special, as it deems necessary. They shall consist of as many members and shall perform such duties as the council may require and shall be governed by the standard form by-laws unless such committee or commission is specifically exempt from those by-laws. All members of such boards, committees and commissions shall serve at the pleasure of the council.

Section 2-5-9 Voting

A. The mayor shall vote as a member of the council.

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

Section 2-5-10 Suspension of Rules

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

ARTICLE 2-6 ORDINANCES, RESOLUTIONS AND CONTRACTS

2-6-1 Prior Approval
2-6-2 Introduction
2-6-3 Reading Required
2-6-4 Requirements for an Ordinance
2-6-5 Effective Date of Ordinances
2-6-6 Signatures Required
2-6-7 Publishing Required
2-6-8 Posting Required

Section 2-6-1 Prior Approval

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

Section 2-6-2 Introduction

Ordinances, resolutions, and other matters or subjects requiring action by the council shall be introduced and sponsored by a member of the council, except that the attorney or the clerk may present ordinances, resolutions and other matters or subjects to the council, and any councilmember may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise, it shall not be considered.

Section 2-6-3 Reading Required

All ordinances shall be read by title only unless the council, by majority vote, requires reading in full.

Section 2-6-4 Requirements for an Ordinance

Each ordinance may have only one subject, the nature of which is clearly expressed in the title. Whenever possible, each ordinance shall be introduced as an amendment to this code or to an existing ordinance, and, in such case, the title of the sections to be amended shall be included in the ordinance.

Section 2-6-5 Effective Date of Ordinances

A. No ordinance, resolution or franchise shall become operative until thirty days after its passage by the council and signature by the mayor, except measures necessary for the immediate preservation of the peace, health or safety of the town, but such an emergency measure shall not become immediately operative unless it states in a separate section the reason why it is necessary that it should become immediately operative, and unless it is approved by the affirmative vote of three-fourths of all the members elected to the council.

B. In addition to the provisions of subsection A of this section, the clerk shall certify the minutes of any council meeting at which an ordinance, resolution or franchise, except an emergency measure is passed. The thirty day period specified in subsection A of this section shall be calculated from the date of passage by the council and signature by the mayor.

Section 2-6-6 Signatures Required

Every ordinance passed by the council shall, before it becomes effective, be signed by the mayor and attested by the clerk.

Section 2-6-7 Publishing Required[1]

Only such ordinances, orders, resolutions, motions, regulations or proceedings of the council shall be published as may be required by state statutes or expressly ordered by the council. Ordinances shall be published once each week for two consecutive weeks in a newspaper of general circulation.

Section 2-6-8 Posting Required

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

[1]Ordinance 98-97

ARTICLE 2-7 PLANNING AND ZONING COMMISSION[1]

2-7-1 Creation
2-7-2 Membership

Section 2-7-1 Creation

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

Section 2-7-2 Membership

A. The commission shall consist of seven members. The members of the commission shall be residents of the town. The members shall be appointed by the mayor and council and shall serve at the pleasure of the mayor and council.

B. All appointments or extension of terms shall be for a three year period and all terms shall end on August 31st of the third year after appointment or extension.

C. Commission members shall serve without pay, except that they may be reimbursed for actual expenses incurred in connection with the duties of their office upon authorization or ratification by the council.

[1]Ordinance 24-92

ARTICLE 2-8 BOARD OF ADJUSTMENT[1]

2-8-1 Creation
2-8-2 Membership
2-8-3 Terms

Section 2-8-1 Creation

There is hereby created, pursuant to the authority of the Town of Queen Creek Zoning Code, a Queen Creek Board of Adjustment.

Section 2-8-2 Membership

The membership of the board of adjustment shall consist of five members who shall be appointed by the mayor and council.

Section 2-8-3 Terms

All terms shall be for a period of three years.

ARTICLE 2-9 (RESERVED)[2]

[1] Amended by Ordinance 25-92
[2] Amended by Ordinance 312-05

CHAPTER 3 ADMINISTRATION

ARTICLE 3-1 OFFICERS IN GENERAL

3-1-1 Officers
3-1-2 Additional Officers
3-1-3 Bond
3-1-4 Vacancies; Holding More Than One Office
3-1-5 Additional Powers and Duties

Section 3-1-1 Officers[1]

The regular appointed officers of the Town shall be the Town Manager, Town Clerk, Chief of Police, Magistrate, Attorney and Engineer, who shall be appointed by the Council and who shall serve at the pleasure of the Council, with the exception of the Town Magistrate who shall serve a term of two years. The Council has directed that Town Engineer be appointed by the Town Manager.

Section 3-1-2 Additional Officers

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

Section 3-1-3 Bond

The Council shall require each officer of the Town to give bond for the due discharge of his duties in such sums and with such security as it may direct and approve. The Town shall pay the costs of such bond but is not required to do so.

Section 3-1-4 Vacancies; Holding More Than One Office

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

Section 3-1-5 Additional Powers and Duties

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

[1]Ordinance 76-96 as amended by Ordinances 365-06; 485-10

ADMINISTRATION

ARTICLE 3-2 OFFICERS

3-2-1 Clerk
3-2-2 Chief of Police
3-2-3 Engineer
3-2-4 Attorney
3-2-5 Magistrate
3-2-6 Town Manager

Section 3-2-1 Clerk

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

B. Public Inspection of Records. The clerk shall keep convenient for public inspection all public records and public documents under his control, as provided by state statute.

C. Minutes. The clerk shall prepare or cause to be prepared all minutes of council proceedings and ensure their correctness and accuracy.

D. Ordinances, Resolutions, Budgets and Notices. The clerk shall process, record, file, publish and, if required by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the council.

E. Duties as Treasurer. The clerk shall hold the office of Treasurer and receive and safely keep all monies that shall come to the Town and pay out the same when authorized by the Council. He shall keep a separate record and account of each different fund provided by the Council, apportion the monies received among the different funds as prescribed by the Council, and keep a complete set of books showing every money transaction of the Town, the state of each fund, from what source the money in each fund was derived and for what purpose expended. He shall make monthly reports to the Council of all receipts and disbursements and the balance in each fund. He shall countersign all warrants issued by order of the Mayor and Council and signed by the Mayor, and shall disburse monies of the Town upon demands duly approved by the Council.

F. Election Official. The Clerk shall be the Town Election Official and perform those duties required by state statute.

G. Licenses. The clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code.

H. Administrative Duties. The clerk shall perform those administrative responsibilities and duties that are conferred upon him by the Council in addition to those specified in this code.

Section 3-2-2 Chief of Police

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

Section 3-2-3 Engineer

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

Section 3-2-4 Attorney

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

Section 3-2-5 Magistrate

The Magistrate shall be the presiding officer of the magistrate's court and shall be selected by the Council for a two year term and shall perform those functions necessary to the maintenance of the magistrate's court as provided by state statute.

Section 3-2-6 Town Manager[1]

A. Office Created. The office of the Town Manager is hereby created and established. The Town Manager shall be appointed by the Council on the basis of executive and administrative qualifications with special reference to actual experience in or knowledge of accepted practice in respect to the duties of office as hereinafter set forth; and shall hold office for and at the pleasure of the Council.

B. Eligibility. Residence in the Town at the time of appointment shall not be required as a condition of the appointment.

C. Bond. The Town Manager shall secure a corporate surety bond to be approved by the Council in such sum as may be determined by the Council. The bond shall be conditioned on the faithful performance of the duties imposed on the manager as prescribed in this article. The bond fee shall be paid by the Town.

[1]Ordinance 49-94

D. Removal. The Town Manager may be removed by the affirmative vote of four members of the Town Council at a regular or special session. The removal does not require the statement of any cause.

E. Resignation. The Manager shall give in writing a sixty days notice of intention to resign before leaving the office of Town Manager.

F. Compensation. The Manager shall receive such compensation as the Council shall from time to time determine, and said compensation shall be a proper charge against such funds of the town as the council shall designate. The Town Manager shall be reimbursed for all sums necessarily incurred or paid in the performance of duties, or incurred when traveling on business pertaining to the town as approved by the Council; reimbursement shall be made only when a verified itemized claim, setting forth the sums expended for which reimbursement is requested, has been presented and approved by the Council.

G. Powers and Duties. The Town Manager shall be the administrative officer of the town government and shall be responsible to the Council for the proper administration of all affairs of the Town under the specific direction and control of the Council. In addition to the general powers as the chief administrative officer and not as limitation thereon, it shall be the manager's responsibility and authority:

1. To see that all laws and ordinances of the Town are enforced and that all franchises and privileges granted by the Town are faithfully observed.

2. To appoint and, when necessary, suspend or remove all employees of the Town except those appointed by the Council. All appointments and removals shall be based on merit and upon the qualifications and disqualifications of such an employee without regard to any political belief or affiliation.

3. To coordinate the administrative functions and operation of the various departments, boards, divisions and services of the town government, and on its behalf to carry out policies, rules, regulations and ordinances adopted by it, relating to the administration of the affairs of such departments, boards, divisions or services. Such powers and duties to be subject to the following provisions:

    a. That the organizational structure under which municipal services are performed shall be specified in an organization chart approved by the Council.

    b. That prior to any creation, combination, consolidation or deletion of any positions of employment, written job descriptions or amendments thereto shall have been approved by the Council.

4. To attend all meetings of the Council unless excused therefrom and to attend, or designate a representative to attend, all Board and Commission meetings.

5. To recommend to the Council for adoption such measures and ordinances as are necessary.

6. To recommend to the Council at periodic intervals changes needed in the Town Code.

7. To prepare and to submit a summary of all contracts, agreements, etc. of which the Town is a party for review by the Council before March 1st of each year.

8. To keep the Council at all times fully advised as to the financial conditions and needs of the Town. To provide whatever reports to the council as it may deem necessary.

9. To prepare and submit to the Council a proposed annual budget for the next fiscal year and a financial plan for the subsequent four fiscal years.

10. To analyze the functions, duties, and activities of the various departments, boards and services of the town government and for all employees thereof, and to make such recommendations to the Council and with reference thereto, as in his/her own judgment will result, if made effective, in the highest degree of efficiency in the overall operation of the town government.

11. To investigate all complaints in relation to matters concerning the administration of the Town, or its utilities or enterprises.

12. To exercise general supervision over all public buildings, public parks and other public property which are under the control and jurisdiction of the Council.

13. To devote as much time to the duties of the office of Town Manager and the interest of the Town as necessary.

14. To perform such other duties and exercise such other powers as may be delegated from time to time by ordinance or resolution of the Council.

ARTICLE 3-3 PERSONNEL SYSTEM

3-3-1 Creation and Scope
3-3-2 Conditions of Employment
3-3-3 Rules and Regulations
3-3-4 Political Contributions

Section 3-3-1 Creation and Scope

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

Section 3-3-2 Conditions of Employment

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

Section 3-3-3 Rules and Regulations

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

Section 3-3-4 Political Contributions

No officer, official or employee of the Town 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.

ARTICLE 3-4 PURCHASING[1]

3-4-1 Scope of Article
3-4-2 Purchasing Director
3-4-3 Cooperative Purchasing

Section 3-4-1 Scope of Article

The Council shall adopt by resolution, rules, regulations and policies that give effect to this article, which may be modified or changed from time to time, but such rules and regulations shall follow principles of sound fiscal management.

Section 3-4-2 Purchasing Director

The Town Manager shall appoint one or more persons to serve as the purchasing director and to administer the town's purchasing policies as set forth in the council adopted rules and regulations.

Section 3-4-3 Cooperative Purchasing

This Article shall not apply to purchases made by, through or with the State of Arizona or its political subdivisions. The Town may make purchases or award contracts for services without a formal bidding process whenever other governmental units have done so for the same item or service if, in the opinion of the purchasing director, a separate bidding process is not likely to result in a lower price for such items or services.

[1]Ordinance 251-03

ARTICLE 3-5 INDEMNIFICATION OF TOWN OFFICERS AND EMPLOYEES[1]

3-5-1 Persons to be Indemnified
3-5-2 Notification of Manager
3-5-3 Expenses for Indemnification
3-5-4 Criminal Proceedings
3-5-5 Representation
3-5-6 No Presumption Created
3-5-7 Gross Negligence and Misconduct
3-5-8 No Impairment of Insurance

Section 3-5-1 Persons to be Indemnified

Any person made a party or threatened to be made a party to any proceeding based on claims arising out of the performance of their duties as an officer, employee, councilmember, or member of a board or commission of the Town (an "appointee") shall be indemnified as set forth in this Article 3-5.

Section 3-5-2 Notification of Manager

As a prerequisite to indemnification under this Article 3-5, a person shall notify the Town Manager as soon as he is made a party or threatened to be made a party to any proceeding. The Town Manager, in consultation with the Town Attorney, shall determine whether provisions of this Article 3-5 apply to such claims. If the Town Manager is the person seeking indemnification, the term "Town Manager" in this Section 3-5-2 shall refer to the Assistant Town Manager.

Section 3-5-3 Expenses for indemnification

Indemnification shall include, without limitation, attorneys' fees, expert witness fees, court costs and fees, judgments and amounts paid in settlement of a claim, if approved by the town.

Section 3-5-4 Criminal Proceedings

If the proceeding is a criminal proceeding, the person shall be indemnified if he had no reasonable cause to believe his conduct was unlawful.

Section 3-5-5 Representation

If the Town is or may be joined with one or more employees, council members, or appointees as defendants in a lawsuit, the Town and the individual(s) shall be jointly represented by the same legal counsel, except that separate legal counsel shall be provided to the employee at the Town's expense when it is determined by the Town Attorney that joint representation would be either ethically inappropriate or otherwise contrary to the interests of the Town. Legal counsel shall be selected by Town or, as applicable, the Town's insurer.

[1]Ordinance 584-15 Revised 12/2015

An officer, employee, council member or appointee who is being defended and indemnified pursuant to this Article 3-5 shall cooperate with the Town and, upon the Town's request, assist in conducting any contested proceeding and making settlements. The officer, employee, council member or appointee shall, when requested by the Town attend depositions, hearings and trials and assist in securing and giving evidence. The officer, employee, council member or appointee shall not, except at his or her own cost, voluntarily make any payment, assume any obligation or incur any expense in connection with the claim or contested proceeding. If the officer, employee, council member or appointee fails to cooperate as required by this subsection, then the Town shall have the right not to defend or indemnify the individual.

Section 3-5-6 No Presumption Created

With respect to indemnification, a termination of the proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not by itself create a presumption that the person acted, or failed to act, other than in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Town, and with respect to any criminal proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 3-5-7 Gross Negligence and Misconduct.

No indemnification shall be made in respect of any claim, issue or matter as to which such person shall be determined to be liable for gross negligence or intentional tortious misconduct in the performance of his duty to the Town.

In the event that the Town incurs costs and expenses on behalf of a person pursuant to this Article 3-5, and it is later determined that the person was not entitled to the benefits of this Article because the individual was grossly negligent or committed intentional tortious misconduct, then the Town shall be reimbursed by the person for all such costs and expenses, including attorneys' fees.

Section 3-5-8 No Impairment of Insurance

Nothing in the indemnity provisions of this Article 3-5 is intended to limit or impair the existence of any insurance, municipal risk pool coverage, or other similar protection provided to the Town or to any person seeking indemnification. Any protection provided to an indemnified person pursuant to this Article 3-5 shall be secondary and the coverage afforded by any such third party insurance or other coverage or protection shall in all cases be primary.

CHAPTER 4 POLICE DEPARTMENT

ARTICLE 4-1 POLICE DEPARTMENT

4-1-1 Composition
4-1-2 Appointment of Officers
4-1-3 Compensation of Officers
4-1-4 Departmental Rules and Regulations
4-1-5 Duties of Police Department
4-1-6 Answering Calls Outside the Town

Section 4-1-1 Composition

There is hereby created a police department for the town which shall consist of a chief of police 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 town.

Section 4-1-2 Appointment of Officers

The chief of police shall be appointed by the council and shall serve at the pleasure of the council. The chief of police, with the concurrence of the council, may appoint as many police officers as may from time to time be deemed necessary for the safety and good order of the town, provided such positions have been approved in the budget.

Section 4-1-3 Compensation of Officers

The chief of police and the police officers of the town shall be compensated as determined by the council and shall not receive any other compensation for services rendered while acting in their official capacity.

Section 4-1-4 Departmental Rules and Regulations

The police department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the council.

Section 4-1-5 Duties of Police Department

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 of Arizona within jurisdictional limits as conferred by law and to arrest and charge the violators thereof.

B. Render such 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, except those records as may be exempted by state or federal law.

C. Enforce the traffic regulations and laws of the state within the limits of the town.

D. Direct traffic and insure the orderly flow thereof and investigate and make reports of accidents.

E. Perform such additional duties as may be required by the council.

F. Any peace officer or duly authorized agent of the town may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of any provision of this code, and to serve a copy of a complaint for any alleged civil or criminal violation of this code.

Section 4-1-6 Answering Calls Outside the Town

The members of the police department of the town are duly authorized to answer calls for aid and assistance beyond the corporate limits of the town pursuant to mutual aid agreements and state statutes.

ARTICLE 4-2 CONTRACT FOR POLICE PROTECTION

In lieu of establishing a police department, the town may enter into an intergovernmental agreement or contract for the provision of police protection.

CHAPTER 5 MUNICIPAL COURT

ARTICLE 5-1 MUNICIPAL COURT ESTABLISHED; JURISDICTION

There is hereby established in the town a municipal court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the town is located of violation of laws of the state committed within the limits of the town. The court shall be known as the Queen Creek Municipal Court and may be located either within or without the corporate limits of the town.

ARTICLE 5-2 PRESIDING OFFICER

5-2-1 Judge
5-2-2 Powers and Duties of Presiding Judge
5-2-3 Hearing Officers

Section 5-2-1 Judge

The presiding officer of the municipal court shall be the presiding judge who shall be appointed by the council for a two-year term. During such term, the magistrate may only be removed for cause.

Section 5-2-2 Powers and Duties of Presiding Judge

The powers and duties of the presiding judge shall include:

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

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

C. The fixing and receiving of all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law.

D. The payment of all fees, fines, penalties and other monies collected by the court to the treasurer.

E. The submission of a periodic report to the council summarizing court activities for specified period.

F. The preparation of a schedule of traffic violations not involving the death of a person, listing a suggested bail for each violation.

G. The designation of a deputy other than a law enforcement officer and a specific location at which the deputy shall, during hours when the court is not open, set the amount of bail in accordance with the foregoing schedule and collect such bail, or accept proper bail bonds in lieu thereof, for and on behalf of the court.

H. The preparation of a schedule of civil traffic violations listing a specific deposit for each violation. The presiding judge shall designate a person, a specific location and the hours which such person will be at the location to accept proper deposits for civil traffic violations for and on behalf of the court.

I. The provision of such associate or substitute judges to perform duties in the absence of the presiding judge.

J. The magistrate shall serve as juvenile hearing officer if appointed by the presiding judge of the juvenile court for Maricopa County.

Section 5-2-3 Hearing Officers

The town council may appoint one or more hearing officers to preside over civil traffic violation cases when the appointment of such hearing officers is deemed 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 Queen Creek Municipal Court which are appealable to the Superior Court pursuant to the Arizona Revised Statutes.

ARTICLE 5-3 PROCEEDINGS OF COURT

A. The municipal court proceedings shall be commenced by complaint under oath and in the name of the state setting forth the offense charged with and such particulars of time, place person and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint.

B. If the presiding judge is satisfied that the offense complained of has been committed by the person charged, he shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the presiding judge may subpoena and examine witnesses as to the truth of the complaint.

MUNICIPAL COURT

ARTICLE 5-4 COURT CLERK

The town council may by intergovernmental agreement provide for the use of an existing court clerk who shall perform all of the duties of a court clerk subject to the overall supervision of the presiding judge.

ARTICLE 5-5 TOWN PROSECUTOR

The town attorney shall serve as the town prosecutor and will represent the state or the town in all contested matters and in all other matters where representation is requested or required by the town council, the presiding judge or by law.

ARTICLE 5-6 CIVIL HEARING OFFICER[1]

A Civil Hearing Officer shall be appointed by the Town Manager and may hear all civil code infractions and make such orders as may be proper and necessary to dispose of such cases. Such cases shall be heard without a jury. The Civil Hearing Officer shall adopt such local rules of procedure as may be necessary to implement the hearing of civil code infraction cases. The Civil Hearing Officer shall be the person with authority to hear complaints related to violations and to issue penalties for violations of Chapter 10, Health and Sanitation and for violations of the Zoning Ordinance.

1 Ordinance 566-15

ARTICLE 5-7 CIVIL CODE INFRACTIONS

5-7-1 Commencement of Enforcement Action on Civil Code Infraction
5-7-2 Violations Deemed a Public Nuisance
5-7-3 Remedies Not Exclusive
5-7-4 Compatibility With Other Regulations

Section 5-7-1 Commencement of Enforcement Action on Civil Code Infraction

A. A civil code infraction means all violations of the Town Code designated as civil violations or such violations that are not designated as a petty offense, misdemeanor or civil traffic violation.

B. An enforcement action on a civil code infraction shall be commenced by the filing of a complaint with the Town Civil Hearing Officer, on a form approved by the Town Attorney, or on a Uniform Arizona Traffic Ticket and Complaint, as specified in the Arizona Rules of Procedure in civil traffic violation cases. The complaint form shall be in at least triplicate, in dimensions of approximately 8-1/2 inches by 11 inches, consisting of the original complaint, violator or defendant copy, and enforcement copy. The complaint form shall contain a notice of hearing specifying a location, date, and time at least ten (10) days following issuance of the complaint, at which the defendant shall appear to admit or deny the allegations contained therein. The complaint shall

specifically identify the defendant, the date and time of the alleged civil code infraction(s), the location of the alleged civil code infraction(s), and the civil code infraction(s) alleged by the town code or ordinance section number and description. The complaint shall be signed by the complainant or Enforcement Officer, who shall certify, under penalty of perjury, that he or she has reasonable grounds to believe that the named defendant committed the civil code infractions described in the complaint and that a copy of the complaint has been served on the defendant pursuant to this section.

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

1. By having the defendant(s) sign the complaint with an acknowledgement of receipt of a copy thereof;

2. By hand delivery to the person or persons listed on the complaint;

3. By certified mail with return receipt, addressed to the person or persons listed on the complaint; or

4. By any means authorized in the Arizona Rules of Civil Procedure.

D. Where the defendant is a corporation, partnership, or association the words Defendant or Person in subdivisions C(1), (2), (3) and (4) above shall mean a partner, an officer, a managing organization agent, or any other agent of such entity.

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

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

G. If the allegations are admitted, the Civil Hearing Officer shall enter judgment for the Town and may impose a civil sanction and costs of service against the defendant. The Civil Hearing Officer shall also order the abatement of the civil code infraction, unless it has been abated by the date of a finding of responsibility therefore.

H. If the defendant(s) denies any allegations contained in the complaint, the Civil

Hearing Officer shall set the matter for a civil code infraction hearing. Civil code infraction hearings shall be informal and held without a jury, and the Town is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence shall not apply in such hearings, except for rules concerning relevancy and privileged communications. If the defendant elects to be represented by counsel, the defendant shall so notify the Civil Hearing Officer. The Town may also be represented by the Town Attorney or Town Prosecutor. Hearings shall be electronically recorded by the Civil Hearing Officer. If the Civil Hearing Officer finds in favor of the defendant, the Civil Hearing Officer shall enter an order denying the complaint. If the Civil Hearing Officer finds in favor of the Town, the Civil Hearing Officer shall enter judgment for the Town and may impose a civil sanction and costs of service against the defendant. Each day that a violation continues shall be a separate offense punishable as herein provided. In addition to any monetary civil sanction, the Civil Hearing Officer shall also order the abatement of the civil code infraction, unless it has been abated by the date of entry of such judgment. The Civil Hearing Officer shall have the authority, within his or her discretion, to suspend the payment of any civil sanction imposed.

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

J. In any case involving a civil code infraction relating to the occupancy or use of land, any interest in such land shall be recordable as a lien upon such land and shall run with the land. The Town, at its sole option, may record a notice of civil sanction and abatement order with the Maricopa County Recorder or Pinal County Recorder, as appropriate, and thereby cause compliance by any person(s) or entity thereafter acquiring such property. When the property is brought into compliance by the owner or responsible party, 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.

K. Notwithstanding and other provision of this code, any person found to have violated any provision of this code or amendments thereto, which pursuant to this section is classified as a civil code infraction, and who has been twice previously found to have violated such provision within the preceding twenty four (24) months, shall, in addition to any penalty prescribed for such civil code infraction, be guilty of a Class 1 misdemeanor and shall be punished by a fine not to exceed $2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three (3) years, or by an combination of such fine, imprisonment, and probation.

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

Section 5-7-2 Violations Deemed a Public Nuisance

In addition to the enforcement process and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 5-7-3 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including monitoring expenses.

Section 5-7-4 Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.

[2]Ordinance 422-08

CHAPTER 6 ANIMALS

ARTICLE 6-1 GENERAL

6-1-1 Noises
6-1-2 Housing

Section 6-1-1 Noises

It is unlawful to harbor or keep any animals that disturb the peace by unreasonable odors or by loud noises at any time of the day or night.

Section 6-1-2 Housing

It is unlawful to cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome.

ARTICLE 6-2 RABIES/ANIMAL CONTROL LEASH LAW[1]

6-2-1 Definitions
6-2-2 Powers and Duties of the State Veterinarian and the Livestock Board
6-2-3 Powers and Duties of State Department of Health Services
6-2-4 Powers and Duties of Enforcement Agent
6-2-5 License Fees for Dogs; Issuance of Dog Tags; Records; Penalties; Classification
6-2-6 Kennel Permit; Fee; Violation; Classification
6-2-7 Anti-Rabies Vaccination; Vaccination and License Stations
6-2-8 Rabies Control Fund
6-2-9 Dogs Not Permitted at Large; Wearing License
6-2-10 Establishment of Pounds; Impounding and Disposing of Dogs and Cats; Reclaiming Impounded Dogs and Cats; Pound Fees
6-2-11 Handling of Biting Animals; Responsibility for Reporting Animal Bites; Petition for Determination of Vicious Animals; Authority to Euthanize Animals
6-2-12 Criminal Complaints
6-2-13 Unlawful Interference with Enforcement Agent
6-2-14 Removing Impounded Animals
6-2-15 Unlawful Keeping of Dogs
6-2-16 Violation; Classification
6-2-17 Dogs; Liability
6-2-18 Confinement of Animals in Motor Vehicles
6-2-19 Sterilization of Impounded Dogs and Cats; Definition
6-2-20 Proper Care, Maintenance and Destruction of Impounded Animals

[1]Ordinance 562-15

Section 6-2-1 Definitions

In this article unless the context otherwise requires:

A. "Animal" means any animal of a species that is susceptible to rabies, except man.

B. "At large" means on or off premises of the owner and not under control of the owner or other person acting for the owner. Any dog in a suitable enclosure which actually confines the dog shall not be considered to be running at large.

C. "Collar" means a band, chain, harness or suitable device worn around the neck of a dog to which a county license can be affixed.

D. "County animal shelter" means any establishment authorized for the confinement, maintenance, safekeeping and control of dogs and other animals that come into the custody of the enforcement agent in the performance of his official duties.

E. "Department" means the state department of health services.

F. "Dog" means a member of the Canis Familiaris family.

G. "Enforcement agent" means that person in each county who is responsible for the enforcement of this article and the regulations promulgated thereunder.

H. "Humane officer" means the enforcement agent or the designated deputy.

I. "Impound" means the act of taking or receiving into custody by the enforcement agent any dog or other animal for the purpose of confinement in an authorized county animal shelter in accordance with the provisions of this article.

J. "Kennel" means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains dogs under controlled conditions.

K. "Livestock" means neat animals, horses, sheep, goats, swine, mules and asses.

L. "Owner" means any person keeping an animal other than livestock for more than six consecutive days.

M. "Rabies quarantine area" means 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.

N. "Rabies vaccination certificate" means a method of recording and duplicating rabies information that is in compliance with the county enforcement agent's licensing system and/or county enforcement agent's prescribed forms.

O. "Stray dog" means any dog running at large that is not wearing a valid license tag.

P. "Vaccination" means the administration of an anti-rabies vaccine to animals by a veterinarian or in authorized county animal shelter by employees trained by a veterinarian.

Q. "Veterinarian", unless otherwise indicated, means any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency.

R. "Veterinary hospital" means any establishment operated by a veterinarian licensed to practice in this state that provides clinical facilities and houses animals or birds for dental, medical or surgical treatment. A veterinary hospital may have adjacent to it or in conjunction with it, or as an integral part of it, pens, stalls, cages or kennels for quarantine, observation or boarding.

S. "Vicious animal" means any animal other than an animal used by law enforcement agency, that:

1. has a propensity to bite, scratch or otherwise inflict injury on a human being without provocation. One incident of causing injury may be sufficient to establish a propensity; or

2. has a propensity to approach human beings without provocation in a menacing or terrorizing manner so as to confine the movement of or instill fear in a reasonable person and;

3. is declared vicious after a hearing before a justice of the peace or a town magistrate.

Section 6-2-2 Powers and Duties of the State Veterinarian and the Livestock Board

A. The state veterinarian shall designate the type or types of anti-rabies vaccines that may be used for vaccination of animals, the period of time between vaccination and revaccination and the dosage and method of administration of the vaccine.

B. The Arizona Livestock Board shall regulate the handling and disposition of animals classed as livestock that have been bitten by a rabid or suspected rabid animal or are showing symptoms suggestive of rabies.

Section 6-2-3 Powers and Duties of State Department of Health Services

A. The state department of health services shall regulate the handling and disposition of animals other than livestock that have been bitten by a rabid or suspected rabid animal or are showing symptoms suggestive of rabies.

B. The state department of health services may require the enforcement agent to submit a record of all dog licenses issued and in addition any information deemed necessary to aid in the control of rabies.

Section 6-2-4 Powers and Duties of Enforcement Agent

A. The enforcement agent:

1. Shall enforce the provisions of this article and the regulations promulgated thereunder.

2. May issue citations for the violation of the provisions of this article and the regulations promulgated thereunder. The procedure for the issuance of notices to appear shall be as provided for peace officers in A.R.S. § 13-3903, except that the enforcement agent shall not make an arrest before issuing the notice.

3. Shall be responsible for declaring a rabies quarantine area within area of jurisdiction. When a quarantine area has been declared, the enforcement agent 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 the area. Any regulations restricting or involving movements of livestock within the area shall be subject to approval by the state veterinarian.

B. The issuance of citations pursuant to this section shall be subject to the provisions of A.R.S. § 13-3899.

C. The enforcement agent may designate deputies.

Section 6-2-5[1] License Fees for Dogs; Issuance of Dog Tags; Records; Penalties; Classification

A. The council shall set an annual license fee which shall be paid for each dog three months of age or over that is kept, harbored or maintained within the boundaries of the town for at least thirty consecutive days of each calendar year. License fees shall become payable at the discretion of the council. The licensing period shall not exceed the period of time for revaccination as designated by the state veterinarian. License fees shall be paid within ninety days. A penalty fee of two dollars shall be paid if the license application is made less than one year subsequent to the date on which the dog is required to be licensed under this article. If the license application is made one year or later from the date on which the dog is required to be licensed, an additional penalty fee of ten dollars shall be paid for each subsequent year up to a maximum of twenty-two dollars. This penalty shall not be assessed against applicants who furnish adequate proof that the dog to be licensed has been in their possession less than thirty consecutive days.

B. Durable dog tags shall be provided. Each dog licensed under the terms of this article shall receive, at the time of licensing, such a tag on which shall be inscribed the name of the county, the number of the license and the date on which it expires. The tag shall be attached to a collar or harness which shall be worn by the dog at all times while not in a confined, secure area or as otherwise provided in this article. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a fee to the enforcement agent.

C. License fees may be lower for dogs permanently incapable of procreation. An applicant

[1]Amended by Ordinance 270-03

for a license for a dog claimed to be incapable of procreation shall furnish adequate proof satisfactory to the enforcement agent that such dog has been surgically altered to be permanently incapable of procreation.

D. Any person who fails within fifteen days after written notification from the enforcement agent to obtain a license for a dog required to be licensed, counterfeits or attempts to counterfeit an official dog tag, or removes such tag from any dog for the purpose of willful and malicious mischief or places a dog tag upon a dog unless the tag was issued for that particular dog is guilty of a class 1 misdemeanor.

Section 6-2-6 Kennel Permit; Fee; Violation; Classification

A. A person operating a kennel shall obtain a license issued by the county enforcement agent of the county where the kennel is located except if each individual dog is licensed.

B. The kennel will be in compliance with the county and town health and zoning ordinances and regulations before authorization is issued. The premises will be inspected by the county enforcement agent.

C. Applicant must have written authorization from local authorities to have kennel in area requested. This must accompany the application fee.

D. The annual fee for the kennel license is set by Maricopa County.

E. All dogs in the kennel four months and over shall be properly vaccinated for rabies by a veterinarian licensed to practice in Arizona pursuant to this article.

F. A dog remaining within the kennel is not required to be licensed individually under A.R.S. § 24-367. A dog leaving the controlled kennel conditions shall be licensed under A.R.S. § 24-367, except if the dog is only being transported to another kennel which has a license issued under this section.

G. A person who fails to obtain a kennel license under this section is subject to a penalty of twenty-five dollars in addition to the annual fee.

H. A person who knowingly fails to obtain a kennel license within thirty days after written notification from the county enforcement agent is guilty of a class 1 misdemeanor.

I. The kennel will be constructed and maintained according to county health regulations.

Section 6-2-7 Anti-Rabies Vaccination; Vaccination and License Stations

A. Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination, and type, manufacturer and serial number of the vaccine used, and date revaccination is due. A duplicate of each rabies vaccination certificate issued shall be transmitted to the enforcement agent on or

before the tenth day of the month following the month during which the dog was vaccinated. No dog shall be licensed unless it is vaccinated in accordance with the provisions of this article and the regulations promulgated thereunder.

B. A dog vaccinated in any other state prior to entry into Arizona may be licensed in Arizona provided that, at the time of licensing, the owner of such dog presents a vaccination certificate, signed by a veterinarian licensed to practice in the state or a veterinarian employed by a governmental agency in that state, stating the owner's name and address and giving the dog's description, date of vaccination, and type, manufacturer and serial number of the vaccine used. The vaccination must be in conformity with the provisions of this article and the regulations promulgated thereunder.

C. The enforcement agent shall make provisions for vaccination clinics as deemed necessary. The vaccination shall be performed by a veterinarian.

Section 6-2-8 Rabies Control Fund

A. The enforcement agent or his authorized representative shall place the monies collected by him under the provisions of this article in a special fund to be known as the rabies control fund to be used for the enforcement of the provisions of this article and the regulations promulgated thereunder.

B. Any unencumbered balance remaining in the rabies control fund at the end of a fiscal year shall be carried over into the following fiscal year.

Section 6-2-9 Dogs Not Permitted at Large; Wearing License[1]

A. No dogs shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property, or secured so that a dog is confined entirely to the owner's property, or on a leash not to exceed six feet in length and directly under the owner's control when not on the owner's property.

B. Any dog over the age of three months on or off the premises of the owner and not under physical control of the owner or persons acting for the owner, or any dog not in a suitable enclosure which actually confines the dog, shall wear a collar or harness to which is attached a valid license tag. Any dog over the age of three months on the premises of the owner and either confined or under physical control of the owner or persons acting for the owner need not wear a collar or harness with a valid license tag attached provided that they are properly vaccinated, licensed and in compliance with all sections of this ordinance. Dogs used for control of livestock or while being used or trained for hunting, or dogs while being exhibited or trained at a kennel club event, or dogs while engaged in races approved by the Arizona Racing Commission, and such dogs while being transported to and from such events, need not wear a collar or harness with a valid license attached provided that they are properly vaccinated, licensed and controlled.

C. If any dog is at large on the public streets, public parks or public property, then said dog's owner or custodian is in violation of this article.

[1]Amended by Ordinance 270-03

D. Any person whose dog is at large is in violation of this article. A dog is not at large if:

1. Said dog is restrained by a leash, chain, rope or cord of not more than six feet in length and of sufficient strength to control action of said dog.

2. Said dog is used for control of livestock, or 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 said dog is actively engaged in dog obedience training, accompanied by and under the control of his owner or trainer, provided that the person training said dog has in his possession a dog leash of not more than six feet in length and of sufficient strength to control said dog, and further, that said dog is actually enrolled in or has graduated from a dog obedience training school.

4. Said dog whether on or off the premises of the owner, or person acting for the owner, is controlled as provided in paragraph 1 of this subsection or is within a suitable enclosure which actually confines the dog.

E. The owner or persons acting for the owner of a dog is responsible for the acts and conduct of the dog at all times when the dog is in a public park. All dogs three months of age or older in or upon the premises of a public park must be currently licensed and shall wear a collar or harness to which is attached a valid license tag.

F. The owner or persons acting for the owner of a dog must restrain and control the dog at all times when in a public park by securing the dog with a leash of not more than six feet in length, except when the dog is in an enclosed area within the park, which has been designated by the (county/municipality) as a dog exercise area.

G. At all times when a dog is off leash in a designated dog exercise area as provided in subsection F of this section, the dog must be accompanied by and under control of the owner or persons acting for the owner. Additionally, the owner or persons acting for the owner must at all times, have a leash of not more than six feet in length in his or her possession.

H. At all times when a dog is off leash and participating in a dog show, exhibition or obedience class as provided in subsection D of this section:

1. the dog must be accompanied by and under control of it's owner or persons acting for the owner or trainer or handler, who must at all times have a leash in his or her possession; and

2. the owner or persons acting for the owner or trainer or handler or authorized representative of a club or organization to whom a permit has been issued, shall have the permit on their person at all times and shall present the permit for inspection upon request, to any police officer or authorized member of the public parks staff or enforcement agent.

I. Any dog at large shall be apprehended and impounded by an enforcement agent.

1. Said agent shall have the right to enter upon private property when it is necessary to do so in order to apprehend any dog that has been running at large. Such entrance upon private property shall be in reasonable pursuit of such dog and shall not include

entry into a domicile or enclosure which confines a dog unless it be at the invitation of the occupant.

2. Said agent may issue a citation to the dog owner when the dog is at large. The procedure for the issuance of notice to appear shall be as provided for peace officers in A.R.S. § 13-3903, except the enforcement agent shall not make an arrest before issuing the notice. The issuance of citations pursuant to this article shall be subject to provisions of A.R.S. § 13-3899. In lieu of issuing a citation, a report may be submitted to the county attorney or town prosecutor.

3. In the judgment of the enforcement agent, if any dog at large or other animal that is dangerous or fierce and a threat to human safety cannot be safely impounded, it may be slain.

4. Any dog impounded under this section may be kept impounded until there is a final disposition of any criminal complaint arising from the alleged violation of this section, provided that the criminal compliant is filed within thirty days of the alleged violation.

J. Penalties

1. A violation of this section is a class 1 misdemeanor.

2. A second violation of this section within twenty-four months shall be punishable by fine of not less than one hundred dollars.

3. A third or subsequent violation of this section within twenty-four months shall be punishable by a fine of not less than five hundred dollars.

4. Any violation of this section when the dog has previously been determined to be vicious pursuant to this article shall be punishable by a fine of not less than five hundred dollars and imprisonment for a term of not less than five days.

5. In no case shall a person convicted of violating this section be eligible for suspension or commutation of sentence unless such person is placed on probation with the condition that the minimum fine be paid and term of imprisonment be served.

Section 6-2-10 Establishment of Pounds; Impounding and Disposing of Dogs and Cats; Reclaiming Impounded Dogs and Cats; Pound Fees

A. Any stray dog shall be impounded. All dogs and cats impounded shall be given proper care and maintenance.

B. Each stray dog or any cat impounded shall be kept and maintained at the county animal shelter for a minimum of seventy-two hours unless claimed by its owner. Any person may purchase such a dog or cat upon expiration of the impoundment period, provided such person pays all fees and complies with the licensing and vaccination provisions of this article. If the dog or cat is not claimed within the impoundment period, the enforcement agent shall take possession and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. The enforcement agent may destroy impounded sick or injured dogs or cats whenever such destruction is necessary to prevent such dog or cat from suffering or to prevent the spread of disease.

C. Any impounded licensed dog or any cat may be reclaimed by its owner or such owner's agent, provided that the person reclaiming the dog or cat furnishes proof of right to do so and pays all county animal shelter fees. If the dog or cat is not reclaimed within the impoundment period, the enforcement agent shall take possession and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. Any person purchasing such dog or cat shall pay all pound fees.

Section 6-2-11 Handling of Biting Animals; Responsibility for Reporting Animal Bites; Petition for Determination of Vicious Animals; Authority to Euthanize Animals[1]

A. An unlicensed or unvaccinated dog or cat that bites any person shall be confined and quarantined in a county animal shelter or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than seven days. A dog properly licensed and vaccinated pursuant to this article that bites any person may be confined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by an authorized Maricopa County Animal Control Enforcement Agent (the “Enforcement Agenda”).

B. Any animal other than a dog or cat that bites any person shall be confined and quarantined in a county animal shelter or, upon the request of and at the expense of the owner, at a veterinary hospital for a period of not less than fourteen days, provided that livestock shall be confined and quarantined for the fourteen day period in a manner regulated by the Arizona Livestock Board. If the animal is a caged rodent, it may be confined and quarantined at the home of the owner or where it is harbored or maintained, for the required period of time, with the consent of and in a manner prescribed by the Enforcement Agent.

[1]Ordinance 562-15

C. Any wild animal which bites any person may be euthanized and submitted to the enforcement agent or his deputies for transmission to an appropriate diagnostic laboratory.

D. Whenever an animal bites any person, the incident shall be reported to the Enforcement Agent immediately by any person having direct knowledge.

E. If an Enforcement Agenda has investigated and determined that there is probable cause to believe that an animal is potentially dangerous or vicious, the aggrieved victim (or guardian, if the victim is a minor or disabled person), Supervisor of Maricopa County Animal Control, The Maricopa County Sheriff's Office or their designee may file a petition to have the animal declared potentially dangerous or vicious. The petition must be filed with the Town of Gilbert Municipal Court in accordance with all established procedures and policies. The petition shall be a form prescribed by the Town of Gilbert Municipal Court.

F. The County Enforcement Agent may euthanize any animal confined and quarantined pursuant to this article prior to the termination of the minimum confinement period for laboratory examination for rabies if:

1. Such animal shows clear clinical signs of rabies.

2. The owner of such animal consents to its euthanization.

G. Any animal subject to licensing under this article found without a tag identifying its owner shall be deemed unowned.

H. The County Enforcement Agent shall euthanize a vicious animal upon an order of a Justice of the Peace or a Town of Queen Creek authorized Magistrate, or the Magistrate of another jurisdiction serving as the Town of Queen Creek Magistrate, pursuant to an Intergovernmental Agreement (the "Queen Creek Magistrate"). A Justice of the Peace or Town of Queen Creek Magistrate may issue such an order after notice to the owner, if any, and a hearing.

H. Any animal impounded under this section may be kept impounded until there is a final disposition of any criminal complaint arising from the alleged violation of this section, provided that the criminal complaint is filed within thirty days of the alleged violation.

Section 6-2-12 Criminal Complaints

Any animal impounded under this article may be kept impounded until there is a final disposition of the criminal complaint arising from the alleged violation of this article provided that the criminal complaint is filed within thirty days of the alleged violation.

Section 6-2-13 Unlawful Interference with Enforcement Agent

It is unlawful for any person to interfere with the enforcement agent in the performance of his duties.

Section 6-2-14 Removing Impounded Animals

No person may remove or attempt to remove an animal which has been impounded or which is in the possession of the enforcement agent except in accordance with the provisions of this article and the regulations promulgated thereunder.

Section 6-2-15 Unlawful Keeping of Dogs

It is unlawful for a person to keep, harbor or maintain a dog within the town except as provided by the terms of this article.

Section 6-2-16 Violation; Classification

Any person who fails to comply with the requirements of this article, or violates any of its provisions, is guilty of a class 1 misdemeanor, and may be subject to imprisonment for a maximum period of six months or fined a maximum of $1000.00 or both.

Section 6-2-17 Dogs; Liability

Injury to any person or damage to any property by a dog while at large shall be the full responsibility of the dog's owner or person or persons responsible for the dog when such damages were inflicted.

Section 6-2-18 Confinement of Animals in Motor Vehicles

A. Confining Animals. No person having charge or custody of an animal, as owner or otherwise, shall place or confine such animal or allow such animal to be placed or confined or to remain in a motor vehicle under such conditions or for such a period of time as may endanger the health or well-being of such animal due to heat, lack of food or drink or such other circumstances as may reasonably be expected to cause suffering, disability or death.

B. Responsibility of Motor Vehicle Owner. No person having dominion or control over a motor vehicle, as owner or otherwise, shall place or confine an animal or allow an animal to be placed or confined or to remain in a motor vehicle under such conditions or for such a period of time as may endanger the health or well-being of such animal due to heat, lack of food or drink or such other circumstances as may reasonably be expected to cause suffering, disability or death.

C. Exceptions. Nothing in this article shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purpose.

D. Authority of Peace Officer or Humane Officer. A peace officer or a humane officer who finds an animal in a motor vehicle in violation of this article may break and enter the motor vehicle if necessary to remove the animal. The officer removing the animal shall take the animal to an animal shelter or other place of safekeeping and shall in the event the person having custody cannot be otherwise contacted, leave in a prominent place in the motor vehicle a written notice bearing his name and office and the address where the animal may be claimed by the owner thereof. The animal will be surrendered to the owner if the owner claims the animal within ten days from the time the animal was removed from the motor vehicle and pays all reasonable charges that have accrued for the maintenance of the animal. The person or animal shelter having custody of the animal will make reasonable efforts to contact the owner and give notice that the animal is in their custody and may be reclaimed by the owner upon payment of the reasonable maintenance charges. In the event the owner cannot be contacted, or expresses no interest in reclaiming the animal within three (3) days after contact or efforts to contact, the person or animal shelter having custody of the animal may dispose of the animal in any reasonably humane manner.

E. Dogs Riding in Motor Vehicles; Restrictions; Application; Exception.

1. A person driving a motor vehicle on a highway shall not allow a dog to ride in that portion of the motor vehicle that is open in such a manner which would permit the dog to jump out of the motor vehicle or to be thrown from the vehicle by acceleration or stopping of the vehicle or in an accident involving the vehicle.

2. Paragraph 1 of this subsection applies to open areas of a motor vehicle including the open bed of a truck, the interior of a convertible motor vehicle which has the top down or removed, the rear storage portion of a station wagon or van with the tailgate open or the trunk or hatchback portion of a motor vehicle with the trunk or hatchback open, but paragraph 1 does not apply:

   a. If the dog is confined to a cage of adequate construction and design to prevent its escape from the motor vehicle;

   b. to a portion of a motor vehicle which is fully enclosed except for open windows;

   c. to a motor vehicle with an installed means of preventing the dog from being discharged;

   d. if the dog is secured to the motor vehicle in a humane manner which will prevent the dog from being thrown in the event of an accident or from escaping from the motor vehicle.

Section 6-2-19 Sterilization of Impounded Dogs and Cats; Definition

A. A dog or cat shall not be released for adoption from a county or town shelter or from an animal shelter unless either:

1. The dog or cat has been first surgically spayed or neutered.

2. The adopting party signs an agreement to have the dog or cat spayed or neutered within thirty days or before sexual maturity and deposits with the pound or shelter an amount sufficient to ensure that the dog or cat will be sterilized.

B. If the adoption fee includes the cost of spaying or neutering, then no deposit is required. The amount of the deposit required by subsection A, paragraph 2 of this section shall be determined by the pound or shelter to be comparable to the lowest fee charged by veterinarians in the county. The pound or shelter shall refund to the adopting party any monies deposited pursuant to the agreement if within the time provided in the agreement there is presented written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered.

C. Any deposit monies that are not refunded under subsection A, paragraph 2 of this section shall be used only for the following purposes:

1. Spaying or neutering dogs and cats.

2. Public education to prevent overpopulation of dogs and cats.

3. Costs of confirming that adopted dogs and cats are spayed or neutered.

D. This section does not apply to a county or incorporated town that adopts an ordinance or resolution for dog and cat sterilization that exceeds the requirements of this section.

E. For purposes of this section, "animal shelter" means a facility that is used or designated for use to house or contain any dog or cat and that is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit corporate organization devoted to the welfare, protection and humane treatment of animals.

Section 6-2-20 Proper Care, Maintenance and Destruction of Impounded Animals

A. Any animal impounded in a county or town shelter shall be given proper and humane care and maintenance.

B. Any animal destroyed while impounded in a county or town shelter shall be destroyed only by the use of one of the following:

1. Sodium pentobarbital or a derivative of sodium pentobarbital.

2. Nitrogen gas.

3. T-61 Euthanasia solution or its generic equivalent.

C. If an animal is destroyed by means specified in subsection B, paragraphs 1 or 3 of this section, it shall be done by a licensed veterinarian or by personnel trained by a veterinarian.

D. The governing body of any county or town which operates a shelter shall establish procedures for the humane destruction of impounded animals by the methods described in subsections B and C of this section.

ARTICLE 6-3 BEES AND BEE KEEPING[1]

6-3-1Definitions
6-3-2Permits
6-3-3Requirements
6-3-4Prohibited Acts
6-3-5Exceptions
6-3-6Penalty
6-3-7Abandoned Hives, Colonies and Apiaries

Section 6-3-1 Definitions

In this article, unless the context otherwise requires:

A. "Apiary" means one or more hives or colonies of bees at one location.

B. "Colony" means the inhabitance of the hive including the queen, drones, worker bees and brood.

C. "Hives" means the domicile of bees including any receptacles or containers inhabited by bees.

D. "Swarm" means a population of transient bees that have not permanently established themselves.

Section 6-3-2 Permits

A. Prior to the keeping of any hive, colony or apiary within the limits of the town, all persons shall be required to obtain a beekeeping license issued by the town clerk. The application form for the license shall include the name, address and telephone number of the person seeking the license as well as the name, address and telephone number of the property owner. If the applicant is other than the property owner, then the application shall also include written permission of the owner for the use of the property for keeping a hive, colony or apiary. The form shall also include a drawing of the property indicating the location for the keeping of the hive, colony or apiary and an acknowledgment that prior to the placing of the hive, colony or apiary upon the property that an adequate supply of water is available on the property in close proximity to the hive, colony or apiary.

B. An annual fee of ten dollars shall be charged and collected for the issuance of each license and a separate license will be required for each separate location at which bee keeping will occur.

Section 6-3-3 Requirements

[1]Ordinance 52-94

A. Any receptacle or container inhabited by bees shall be marked on the outside in such a manner as to reflect the license number issued by the town.

B. A permanent and adequate water supply must be available on the property at all times within thirty feet of the hive, colony or apiary.

C. In residential zones classified R-1-35 or smaller, all hives, colonies and apiaries must be located no closer than thirty feet to any exterior property line. In residential zones classified R-1-43 or greater and in commercial or industrial zones, the thirty foot limitation shall only apply along the property line that abuts residential property zoned R-1-35 or smaller.

Section 6-3-4 Prohibited Acts

The following are prohibited:

A. The keeping of bees whether or not for commercial purposes without first having obtained a permit.

B. Failure to provide adequate water supply as set forth in Section 6-3-3.

C. Any act or omission the result of which is to allow bees to be kept in such a manner so that they present a hazard to the public health, safety and welfare of the residents.

Section 6-3-5 Exceptions

The provisions of this Article do not apply to any property owner upon whose property a swarm of transient bees are attempting to or have established a domicile.

Section 6-3-6 Penalty

Upon conviction of a violation of any provision of this Article, the first offense shall be punished as a petty offense and all subsequent convictions within a two year period shall be treated as class I misdemeanors.

Section 6-3-7 Abandoned Hives, Colonies and Apiaries

Any hive, colony or apiary which does not contain the marking requirements of subsection A of Section 6-3-3 and the water supply requirement of subsection B of Section 6-3-3 and for which no permit required by Section 6-3-2 has been issued shall be presumed to be abandoned. The town upon a complaint may take all action necessary to remove the abandoned hive, colony or apiary from the property.

CHAPTER 7 BUILDINGS AND BUILDING REGULATIONS

SECTION 7.1 - ADMINISTRATION

SECTION 7.1.1 - TITLE, SCOPE AND PURPOSE

7.1.1.1 Title. This section shall be known as the *Queen Creek Building and Building Regulations Administrative Code* of the Town of Queen Creek, hereinafter referred to as "This Code". This Administrative section shall apply to all of the Technical Codes referenced in 7.1.1.2, except as otherwise noted in this Section 7.1 and Section 7.2. If there are conflicts between sections, the more restrictive requirement will apply.

7.1.1.2 Scope. The provisions of this Administration section shall serve as the administrative, organizational and enforcement rules and regulations for the technical codes and other building regulations of the Town as to the prescribed extent of each such reference. The provisions of "This Code" shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings, structures or premises.

The technical codes shall include all of the following codes. The codes and standards referenced in "This Code" shall be considered part of the requirements of the technical codes to the prescribed extent of each such reference.

International Building Code, 2012 edition
International Residential Code, 2012 edition
International Mechanical Code, 2012 edition
National Electrical Code, 2011 edition
International Plumbing Code, 2012 edition
International Fuel Gas Code, 2012 edition,
International Existing Building Code, 2012 edition
International Energy Conservation Code, 2012 edition
International Property Maintenance Code, 2012 edition
International Urban-Wildland Interface Code, 2012 edition
International Fire Code, 2012 edition

7.1.1.2.1 Appendices. Provisions in the appendices shall not apply unless specifically adopted.

7.1.1.3 Intent. The purpose of "This Code" is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

The purpose of the code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of “This Code”. Although the Town’s Building Official or other designated Town official is directed to obtain substantial compliance with the provisions of “This Code”, a guarantee that all buildings, structures or utilities have been constructed in accordance with all the provisions of the code or other ordinances of the Town of Queen Creek is neither intended nor implied.

7.1.1.4 Technical codes. The technical codes listed in Section 7.1.1.2 and referenced elsewhere in “This Code” shall be considered part of the requirements of “This Code” to the prescribed extent of each such reference. Any references to codes other than listed in 7.1.1.4.1 through 7.1.1.4.11 shall be deleted and the codes listed in 7.1.1.4.1 through 7.1.1.4.11 inserted in lieu thereof. (Example: ICC Electrical Code would be replaced with National Electrical Code). Any reference to the International Zoning Code shall mean the current Town of Queen Creek Zoning Ordinance. Where references to private swimming pools, spas or hot tubs are indicated in “This Code”, it shall be amended and the requirements shall meet Appendix G of the 2012 International Residential Code, as amended in Section 7.2.2.

7.1.1.4.1 Building Code. The provisions of the 2012 *International Building Code* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings, structures or premises.

7.1.1.4.2 Residential Code. The provisions of the 2012 *International Residential Code* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above-grade in height with a separate means of egress and their accessory structures. Such Dwellings and Townhouses shall be designated as R-3 occupancies.

7.1.1.4.3 Mechanical Code. The provisions of the 2012 *International Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

7.1.1.4.4 Electrical Code. The provisions of the 2011 *National Electrical Code* shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

7.1.1.4.5 Plumbing Code. The provisions of the 2012 *International Plumbing Code* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and

where connected to a water or sewage system and all aspects of a medical gas system. Any references to a plumbing code or gas code within “This Code” shall mean the International Plumbing Code or International Fuel gas Code.

7.1.1.4.6 Fuel Gas Code. The provisions of the 2012 *International Fuel Gas Code* shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in “This Code”. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

7.1.1.4.7 Existing Building Code. The provisions of the 2012 *International Existing Building Code* shall apply to the repair, alteration, change of occupancy, addition and relocation of existing buildings.

Exception:
Buildings not previously occupied. A building or portion of a building that has not been previously occupied or used for its intended purpose in accordance with the laws in existence at the time of its completion shall comply with the provisions of the *International Building Code* or *International Residential Code*, as applicable, for new construction or with any current permit for such occupancy.

7.1.1.4.8 Energy. The provisions of the 2012 *International Energy Conservation Code* shall be applied to all matters governing the design and construction of buildings for energy efficiency.

7.1.1.4.9 Property Maintenance Code. The provisions of the 2012 *International Property Maintenance Code* shall apply to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

7.1.1.4.10 Urban-Wildland Interface Code. The provisions of the 2012 *International Urban-Wildland Interface Code* shall apply to the construction, alteration, movement, repair, maintenance and use of any building, structure or premises within the wildland-urban interface areas in this jurisdiction.

7.1.1.4.11 Fire Code. The provisions of the 2012 *International Fire Code* shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

7.1.1.5 Definitions. Unless otherwise expressly stated, the following words or terms shall have the meaning as set forth in “This Code”. Definitions located in the technical codes are hereby incorporated into “This Code”.

Building Official - The officer or other designated authority charged with the administration and enforcement of “This Code” and the technical codes, or duly authorized representative. When the term or title administrative authority, Building Official, chief inspector, code enforcement officer, code official, gas official, plumbing official, mechanical official, responsible official, fire code official, or other similar designation is used in “This Code” or in any of the technical codes, it shall be construed to mean the Building Official.

Certificate of Compliance - A document issued by the Building Official indicating satisfactory compliance of a building or portion of a building, structure, electrical, gas, mechanical or plumbing system. This certificate can apply to various Town ordinances and the approved plans, and does not grant authority to occupy the building, structure or portion thereof prior to the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy.

Certificate of Occupancy - A document issued by the Building Official upon completion of all required inspections and approval of all requirements associated with the project whether onsite or offsite. It is a control device employed to ensure that a building is not used or inhabited until such time as the building official has deemed it safe to do so.

Existing Building or Structure – A building or structure erected prior to the date of adoption of the code, or one for which a legal Certificate of Occupancy, or Town final approval, if no Certificate of Occupancy is required, has been issued.

Name of Jurisdiction - Any reference to the Jurisdiction within “This Code” shall mean the Town of Queen Creek, Arizona.

Revisions - Revisions are documents or other data submitted by applicants seeking to change the approved plans, for which a permit has been issued and remains in force, such that the scope of the original permit.

R-3 (IRC) Occupancies - Detached one- and two-family dwellings and townhouses not more than three stories above grade in height with a separate means of egress and their accessory structures regulated by the International Residential Code for One and Two-family Dwellings.

R-3 (IBC) Occupancies - Detached one- and two-family dwellings and townhouses more than three stories above grade in height with a separate means of egress and their accessory structures regulated by the International Building Code.

Shell Building - A permitted building or portion of, that when completed, cannot qualify for a Certificate of Occupancy.

Stand Alone Permits - Stand Alone Permits are those that involve separate plumbing, mechanical, electrical, fire protection or other work not included in a combination Permit for a building or structure. Stand Alone fees shall be as indicated in the currently adopted fee schedule.

Standard Plans - Plans approved and to be used in construction on a repetitive basis. Standard plans may include options allowing variations to the building design that may alter the interior and exterior appearance.

Temporary Certificate of Occupancy - A Certificate that is intended to acknowledge that some of the building features may not be completed even though the building is safe, or that a portion of the building can be safely occupied while work continues in another area. Temporary Certificates would be issued only when incidental construction remains, such as site work that is not necessary for the safety of people, whether employees or the general public. This Certificate precludes the occupancy of the building or structure that does not contain all of the required fire protection systems and means of egress.

SECTION 7.1.2 - APPLICABILITY

7.1.2.1 General. Where, in any specific case, different sections of "This Code" specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall apply.

7.1.2.2 Other laws. The provisions of "This Code" shall not be deemed to nullify any provisions of local, state or federal law.

7.1.2.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of the specific code.

7.1.2.4 Referenced codes and standards. The codes and standards referenced in "This Code" shall be considered part of the requirements of "This Code" to the prescribed extent of each such reference. Where differences occur between provisions of "This Code" and referenced codes and standards, the more restrictive code shall apply.

7.1.2.5 Partial invalidity. In the event that any part or provision of "This Code" is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

7.1.2.6 Existing structures. The legal occupancy and any electrical, plumbing, mechanical or fire system of any structure existing on the date of adoption of "This Code" shall be permitted to continue without change, except as is specifically covered in

"This Code", the *International Property Maintenance Code* or the *International Fire Code*, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

It shall be unlawful to make any change in the occupancy of any structure that will subject the structure to any provision of "This Code" without approval of the Building Official. The Building Official shall verify that such structure meets the intent of the provisions of law governing building construction for the proposed new occupancy and that such change of occupancy does not result in any hazard to the public health, safety or welfare.

7.1.2.7 Additions, alterations or repairs. Additions, alterations, renovations or repairs to any mechanical, plumbing or electrical system shall conform to that required for a new system without requiring the existing system to comply with all the requirements of "This Code". Additions, alterations or repairs shall not cause an existing system to become unsafe, unsanitary or overloaded.

Minor additions, alterations, renovations and repairs to existing systems shall be permitted in the same manner and arrangement as in the existing system, provided that such repairs or replacement are not hazardous and are approved by the Building Official.

7.1.2.8 Requirements not covered by code. Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, premises, system, or for the public safety, health and general welfare, not specifically covered by "This Code" shall be determined by the Building Official.

SECTION 7.1.3 - DUTIES AND POWERS OF BUILDING OFFICIAL

7.1.3.1 General. The Building Official is hereby authorized and directed to enforce the provisions of "This Code". The Building Official shall have the authority to render interpretations of "This Code" and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of "This Code". Such policies and procedures shall not have the effect of waiving requirements specifically provided for in "This Code".

7.1.3.2 Applications and permits. The Building Official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of "This Code" and other laws and ordinances of the jurisdiction.

7.1.3.3 Notices and orders. The Building Official shall issue all necessary notices or orders to ensure compliance with "This Code" and other laws and ordinances of the jurisdiction to the prescribed extent of each such reference.

7.1.3.4 Inspections. The Building Official shall make all of the required inspections, or the Building Official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

7.1.3.5 Identification. The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under "This Code".

7.1.3.6 Right of entry. Where it is necessary to make an inspection to enforce the provisions of "This Code", or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of "This Code", and other laws and ordinances of the jurisdiction to the prescribed extent of each such reference, which makes the structure or premises unsafe, dangerous or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by "This Code" and other laws and ordinances of the jurisdiction to the prescribed extent of each such reference, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

7.1.3.7 Records. The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

7.1.3.8 Liability. The Building Official, member of the Board of Appeals or Town employee charged with the enforcement of "This Code", while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by "This Code" or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of "This Code" shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of "This Code".

7.1.3.9 Approved materials and equipment. Materials, equipment and devices approved by the Building Official shall be constructed and installed in accordance with such approval.

7.1.3.9.1 Used materials and equipment. The use of used materials which meet the requirements of "This Code" for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

7.1.3.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of "This Code" or other pertinent law or ordinance, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative and appropriate fees paid, provided the Building Official shall first find that special individual reason makes the strict letter of "This Code" or other pertinent law or ordinance impractical and the modification is in compliance with the intent and purpose of "This Code" and other pertinent law or ordinance and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in accordance with Section 7.1.3.7.

7.1.3.11 Alternative materials, design and methods of construction and equipment. The provisions of "This Code" are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by "This Code", provided that any such alternative has been approved and the appropriate fees have been paid. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of "This Code", and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in "This Code" in quality, strength, effectiveness, fire resistance, durability and safety.

7.1.3.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in "This Code", shall consist of valid research reports from approved sources.

7.1.3.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of "This Code", or evidence that a material or method does not conform to the requirements of "This Code", or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in "This Code" or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for retention of public records.

7.1.3.12 Occupancy Violations. When a building, structure, premises or building service equipment regulated by "This Code", the technical codes, or any other regulation within the jurisdiction is being used contrary to the provisions of "This Code", or the technical codes, the Building Official may order such use discontinued by written

notice served on any person causing such use to be continued. Such person shall, after receipt of notice, discontinue the use within the time prescribed by the Building Official and make the building, structure, premises, or portion thereof, comply with the requirements of such codes.

7.1.3.13 Authority to Disconnect Utilities. In case of emergency, the Building Official or authorized representative shall have the authority to disconnect a utility service or energy supplied to the building, structure, premise or building service equipment therein regulated by "This Code" or the technical codes where necessary to eliminate an immediate hazard to life or property. The Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such utility, owner and occupant of the building, structure, premise or building service equipment, in writing, of such disconnection immediately thereafter.

7.1.3.14 Unsafe Structures And Equipment

7.1.3.14.1 Conditions. Structures or existing equipment or systems that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

7.1.3.14.2 Record. The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

7.1.3.14.3 Notice. If an unsafe condition is found, the Building Official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the order.

7.1.3.14.4 Method of service. Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the

owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

7.1.3.14.5 Restoration. The structure, premise or equipment determined to be unsafe by the Building Official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of "This Code" to the prescribed extent of each such reference.

SECTION 7.1.4 - PERMITS

7.1.4.1 Permit Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by "This Code", or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

Exception:
Entities that are, as a matter of law, immune from having to obtain a permit are exempt from the requirement to obtain permits unless agreed to in writing by both parties.

7.1.4.1.1 Annual permit. In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the Building Official is authorized to issue an annual permit upon application therefore to any person, firm or corporation regularly employing one or more qualified trade persons in the building, structure or on the premises owned or operated by the applicant for the permit. The Annual Facilities Permit fees shall be as indicated within the currently adopted Permit Fee Schedule. The Building Official may develop a process and procedures for Annual Permits. The Building Official may suspend or revoke an Annual Facilities Permit when the facility fails to comply with any of the responsibilities of any provisions of "This Code" or the processes and procedures stipulated by the Building Official.

7.1.4.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Building Official shall have access to such records at all times or such records shall be filed with the Building Official as designated. Annual Facilities Permit is not transferable.

7.1.4.1.3 Compliance with Other Town Code Provisions, When Required. Building permits for construction of residences in new subdivisions shall not be issued until installation of all utilities, streets and other offsite improvements have been completed and accepted by the Town, except in those instances where the Building Official or a duly authorized representative, determines that phasing of

utilities, streets and other selected offsite improvements are acceptable. When such phasing is desired, the utilities, streets, and other offsite improvements to be phased shall be approved in accordance with all Town-adopted Codes and Ordinances.

7.1.4.2 Work exempt from permit. Exemptions from permit requirements of "This Code" shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of "This Code" or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

7.1.4.2.1 International Building Code and the International Residential Code.

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet.

2. Fences not over 7 feet high unless required by any other laws or ordinances of this jurisdiction.

3. Oil derricks.

4. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2 to 1.

6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below and which are not part of an accessible route.

7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

8. Temporary motion picture, television and theater stage sets and scenery.

9. Prefabricated swimming pools accessory to a Group R-3 Single Family Dwelling occupancies which are less than 18 inches (457 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.

10. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

11. Swings and other playground equipment accessory to detached one and two family dwellings.

12. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

13. Movable cases, counters and partitions not over 5 feet 9 inches (1773 mm) in height.

14. Flag poles and light poles not over 35 feet (10.67 m) in height.

15. Window replacement with same style window in same opening. Egress requirements must be maintained.

7.1.4.2.2 International Mechanical Code.

1. Portable heating appliance.

2. Portable ventilation equipment.

3. Portable cooling unit.

4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by “This Code”.

5. Replacement of any part that does not alter its approval or make it unsafe.

6. Portable evaporative cooler.

7. Self-contained refrigeration system containing 10 pounds or less of refrigerant and actuated by motors of 1 horsepower or less.

8. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

7.1.4.2.3 National Electrical Code.

1. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when the cord or cable is permitted by the adopted National Electrical Code.

2. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

3. The provisions of “This Code” shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

4. Installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

5. Repair or replacement of fixed motors, transformers, overcurrent devices, electrodes, transformers or approved appliances of the same type and rating in the same location.

6. Listed cord and plug connected temporary decorative lighting.

7. Repair or replacement of current-carrying parts of any switch, contactor or control device.

8. Reinstallation of plug receptacles, but not the outlets therefore.

9. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 27 volts and not capable of supplying more than 50 watts of energy.

10. The wiring for temporary theater, motion picture or television stage sets.

11. Low-energy power, control and signal circuits of Class II and Class III as defined by the Electrical Code.

12. Installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

13. Installation of temporary portable generators for special events.

7.1.4.2.4 International Plumbing Code.

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in “This Code”.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

3. Replacement of electric water heating appliances of equal or less amperage rating and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance.

4. Replacement of electric air-handling units, appliances, furnaces, and log lighters of equal or less amperage rating, and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance.

5. Replacement of electric heaters, overhead radiant heaters, freestanding heaters, overhead heaters, of equal or less amperage rating, and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance. Any appliance or appurtenances equipped with required fire detection, fire notification or fire suppression systems will require a permit and inspections.

6. Water softeners.

7.1.4.2.5 International Fuel Gas Code.

1. Portable heating appliance.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

3. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

4. Replacement of gas water heating appliances of equal or less BTU/CFH rating and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance.

5. Replacement of gas pool and spa heating appliances of equal or less BTU/CFH rating, and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance.

6. Replacement of gas air-conditioning units, direct-vented appliances, furnaces, and log lighters of equal or less BTU/CFH rating, and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance.

7. Replacement of gas unit heaters, overhead radiant heaters, vented freestanding heaters, vented overhead heaters, direct gas-fired make-up air heaters, industrial air heaters, and furnaces of equal or less BTU/CFH rating, and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance.

8. Replacement of gas air-conditioning units and heat pumps of equal or less BTU/CFH rating, same toxicity and same flammability classification of refrigerants and minor modification to electrical, mechanical, and plumbing connections necessary to serve the new appliance. Any appliance or

appurtenances equipped with required fire detection, fire notification or fire suppression systems will require a permit and inspections.

7.1.4.2.6 Emergency repairs.

Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the Building Official.

7.1.4.2.7 Repairs.

Application or notice to the Building Official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

7.1.4.2.8 Public service agencies.

A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

7.1.4.3 Application for permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 7.1.5.

5. State the valuation of the proposed work.

6. Be signed by the applicant, or the applicant's authorized agent.

7. Give such other data and information as required by the Building Official.

8. Licensing requirement. When the Town requires the issuance of a building permit as a condition precedent to the construction, alteration, improvement, demolition or repair of a building, structure or other improvement to real property other than a single family detached dwelling and it's accessory structures, as part of the application procedures, the town shall require that each applicant for a building permit file a signed statement that the contractor is currently licensed under the provisions of this chapter with the contractor's license number and the privilege license number as required pursuant to ARS section 42-5005. All work performed on the premises shall be by licensed contractor(s) and the building permit shall be issued to a General Contractor licensed by the State of Arizona Registrar of Contractors when a building permit other than "Stand Alone Permits" is required.

Exception:
Permits for Single Family Detached Dwellings and their accessory structures may be issued to the owner if the structure, group of structures or appurtenances, including the improvements thereto, are intended for occupancy solely by the owner and are not intended for occupancy by members of the public as the owner's employees or business visitors and the structures or appurtenances are not intended for sale or for rent. In all actions brought under this exception, proof of the sale or rent or the offering for sale or rent of any such structure by the owner-builder within one year after final approval or issuance of a certificate of occupancy by the Town is prima facie evidence that such project was undertaken for the purpose of sale or rent.

7.1.4.3.1 Action on application. The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefore. If the Building Official is satisfied that the proposed work conforms to the requirements of "This Code" and laws and ordinances of the Town, the Building Official shall issue a permit therefore as soon as practicable. A separate permit shall be issued for each building or structure. A single Site Permit may be issued where the work associated with the site is relevant to the entire project. The Building Official shall determine the Site Permit scope of work.

7.1.4.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of acceptance, unless such application has been pursued in good faith or a permit has been issued; except that the Building Official is authorized to grant one extension of time for an additional period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated by the applicant. The Building Official shall determine justifiable cause.

7.1.4.4 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of "This Code" or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of "This Code" or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized to prevent occupancy or use of a structure or the premise where in violation of "This Code" or of any other ordinances of this jurisdiction.

7.1.4.5 Expiration. Every permit issued shall become invalid unless the work authorized by such permit is commenced and required inspections are requested by the permittee within 180 days after its issuance, or if more than 180 days elapses between required inspections. The Building Official shall be authorized to grant one extension of time for a period not to exceed 180 days. Permits shall not be extended more than once and all requests for extensions shall be in writing. In order to renew action on a permit after expiration, a new permit fee shall be paid based on the current fee schedule adopted by the Town.

7.1.4.6 Suspension or revocation. The Building Official is authorized to suspend or revoke a permit issued under the provisions of "This Code" wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of "This Code" or any other ordinance of this jurisdiction.

7.1.4.7 Placement of permit. The building permit or copy shall be kept on the site of the work until the completion of the project.

7.1.4.8 Dust Control. Prior to the issuance of a permit, the owner or contractor causing or performing the work indicated within the permit, shall furnish a written plan, approved by Maricopa or Pinal County (if applicable), specifying the methods or means of controlling dust in accordance with County regulations concerning fugitive dust sources. For the purposes of this section, dust means all fugitive particulate matter as defined by applicable Maricopa or Pinal County fugitive dust regulations.

7.1.4.9 Responsibility. It shall be the duty of every person who performs work for the installation or repair of building, structure, electrical, gas, mechanical or plumbing systems to comply with "This Code" or any other ordinances of this jurisdiction.

SECTION 7.1.5 - CONSTRUCTION DOCUMENTS

7.1.5.1 Submittal documents. Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction or the

State of Arizona. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception:
The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with "This Code".

7.1.5.1.1 Information on Construction Documents. Construction documents shall be dimensioned and drawn to scale upon suitable material. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of "This Code" and relevant laws, ordinances, rules and regulations of the jurisdiction, as determined by the Building Official or duly authorized Town representative.

The construction documents shall contain, at a minimum, a sheet(s) indicating the name, address and phone numbers of project owner(s), design professionals and contractors (if known). The sheet shall also contain information regarding the Code review as performed by the design professional, including the size of the building, type of construction and type(s) of occupancy, area and height modifications (If any), fire sprinklers (if any), and other information as directed by the Building Official.

7.1.5.1.2 Screening. Submittal documents may be subject to screening for administrative completeness prior to being accepted for permit review. Incomplete submittals shall be returned to the applicant without being accepted, unless otherwise directed by the Building Official.

7.1.5.1.3 Standard Plans. The applicant shall submit the site drawings, application, and other documents as required for permits to construct the approved Standard Plan in accordance with "This Code", the technical codes and relevant laws, ordinances, rules and regulations.

7.1.5.1.4 Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with "This Code" and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards.

7.1.5.1.5 Means of egress. The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of "This Code". The construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

7.1.5.1.6 Exterior wall envelope. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with "This Code". The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

7.1.5.1.7 Manufacturer's Instructions. The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

7.1.5.2 Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, design flood elevations and any additional information required by the Building Official and Town Engineer; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Official, in consultation with the Town Engineer, is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

7.1.5.3 Examination of documents. The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of "This Code" and other pertinent laws or ordinances.

7.1.5.4 Approval of construction documents. When the Town issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance" or other such designation as required by the Town. One set of construction documents so reviewed shall be retained by the Building Official. A second approved set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the Building Official or a duly authorized Town representative.

7.1.5.4.1 Previous approvals. "This Code" shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of "This Code" and has not been abandoned.

7.1.5.4.2 Phased approval. The Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been approved, provided that adequate information and detailed statements have been filed complying with pertinent requirements of "This Code" or any other laws or ordinances of this jurisdiction. The holder of such permit for the foundation or other parts of a building, structure or premises shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

7.1.5.5 Design Professional in Responsible Charge. When it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

Where structural observation is required by "This Code", the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. The Building Official shall approve the individual or firm before inspections are conducted.

7.1.5.6 Deferred Submittals. For the purposes of "This Code", deferred submittals are defined as those portions of the design that are not submitted at the time of the initial accepted application and that are to be submitted to the Building Official within a specified period thereafter.

Deferral of any submittal items shall have the prior approval of the Building Official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the Building Official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the Building Official with a notation indicating that the deferred submittal documents have been reviewed and been found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the design and

submittal documents have been approved by the Building Official, the appropriate fees are paid and the permits issued.

All deferred submittals shall be subject to the same plan review and approval process as the original accepted permit application and the work associated with the deferral for the project shall not commence before approval of the deferred submittal.

Deferred submittals do not constitute the phasing of construction permits but may constitute a revision to the original permit or application if the deferred submittal involves changes in the design or work meeting the definition of a revision.

7.1.5.7 Revised Construction Documents. Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

7.1.5.7.1 Revisions to Construction Documents. The project owner or owner's representative may submit revisions to or modifications of the application or the construction documents at any time prior to the final completion of the work. Such revision shall be subject to the same plan review and approval process as the original accepted permit application. Revisions are documents or other data submitted by applicants seeking to change the approved plans, for which a permit has been issued and remains in force, such that the scope of the original permit is not expanded. Upon approval, revised/modified documents shall supersede and shall be incorporated into the original submission or permit documents. Such approved revisions shall not constitute a new permit request.

7.1.5.8 Retention of Construction Documents. One set of approved construction documents shall be retained by the Building Official for a period of not less than 180 days, from date of final approval or issuance of a Certificate of Occupancy of the permitted work, or as required by state or local laws.

SECTION 7.1.6 - TEMPORARY STRUCTURES AND USES

7.1.6.1 General. The Building Official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The Building Official is authorized to grant extensions for demonstrated cause. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

7.1.6.2 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of "This Code" and all other ordinances of the Town for temporary uses as necessary to ensure the public health, safety and general welfare.

7.1.6.3 Temporary power. The Building Official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion or occupancy has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the Town's *Electrical Code*.

7.1.6.4 Termination of approval. The Building Official is authorized to revoke such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

SECTION 7.1.7 - FEES

7.1.7.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall a revision to a permit be released until the additional fee, if any, has been paid. A fee for each permit shall be paid as required, in accordance with the currently adopted fee schedule as established by the Town. Permit fees shall be paid at the time of issuance of a permit.

7.1.7.2 Building permit valuations. The applicant for a permit shall provide an estimated construction valuation at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems.

For the purposes of determining final valuations for new buildings, the building valuation data as indicated in the most currently adopted fee schedule shall be used. When a foundation-only permit is authorized by the Building Official, it shall be permitted to include the foundation, interior underground utilities and any interior slab-work when so specified.

Any valuation not specifically provided for shall be classified in the use and construction it most nearly resembles.

7.1.7.3 Work commenced before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits or approvals shall be subject to an "Unauthorized Construction" fee in addition to the required permit fees. The fee shall be in accordance with the currently adopted fee schedule as established by the Town. This "Unauthorized Construction Fee" is in addition to the permit fee and shall be assessed whether or not a permit is then or subsequently issued.

7.1.7.4 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

7.1.7.5 Refunds. The Building Official shall be permitted to authorize refunding of a fee paid hereunder which was erroneously paid or collected. The Building Official shall be permitted to authorize refunding of the permit fee paid when no work has been done under a permit issued in accordance with "This Code". The Building Official shall be permitted to authorize refunding of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended. The amount of refunds shall be as indicated under the currently adopted fee schedule.

The Building Official shall not be permitted to authorize refunding of any fee paid except upon written application filed by the original permit holder.

7.1.7.6 Plan review fees. Plan review fees shall be as per the currently adopted fee schedule. Any submittals that require third or subsequent reviews shall be charged an additional plan review fee in accordance with the Town's adopted fee schedule. The estimated plan review fee shall be collected at the time of initial plan acceptance for review and any subsequent review.

Exception:
Plan review fees of $100 or less.

After the plan review has been completed, if the permit has not been issued and expiration of the plan review time period has passed as noted in Section 7.1.4.3.2, the plan review fees shall become due and payable.

SECTION 7.1.8 – INSPECTIONS

7.1.8.1 General. Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of "This 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. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

It shall be the duty of the permit holder to provide an approved property address, including the number and street address, at all construction sites. Such temporary premises identification shall be clearly visible from the street or roadway fronting the property, shall be installed prior to the first inspection, and shall be maintained until the permanent premises identification is installed and approved.

7.1.8.2 Preliminary inspection. Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures and sites for which

an application has been filed. Inspection fees shall be in accordance with the currently adopted fee schedule.

7.1.8.3 Required inspections. The Building Official, upon notification, shall make the inspections set forth in Sections 7.1.8.3.1 through 7.1.8.3.10.

7.1.8.3.1 Footing and foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel and ufer is in place. For concrete foundations, any required forms shall be in place prior to inspection.

7.1.8.3.2 Concrete slab and under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the sub-floor.

7.1.8.3.3 Lowest floor elevation. The elevation certificate required in "This Code" or any other Town ordinance or requirements shall be submitted when required by the Building Official or Town Engineer.

7.1.8.3.4 Frame inspection. Framing inspections shall be made after the roof deck or sheathing, all framing, fireblocking and bracing are in place, pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, mechanical, wires, pipes and ducts are installed and after the roof is loaded with the roof covering material or material that would equal the weight of the finished roofing material. Roof decking or sheathing may be inspected before the roof covering or material of equal weight is applied.

7.1.8.3.5 Lath and gypsum board inspection. Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

Exception:
Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

7.1.8.3.6 Fire-resistant penetrations. Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

7.1.8.3.7 Energy efficiency inspections. Inspections shall be made to determine compliance with "This Code" and shall include, but not be limited to, inspections for: envelope insulation *R* and *U* values, fenestration *U* value, duct system *R* value, and

HVAC and water-heating equipment efficiency. The Building Official is authorized to accept reports verifying the above requirements.

7.1.8.3.8 Other inspections. In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of "This Code" and other laws of the jurisdiction.

7.1.8.3.9 Special inspections. Special inspections and structural observations shall be conducted as required by "This Code" or as required by the Building Official. Special inspection approval shall be documented by the designated special inspection agency and submitted to the Town at or before the final inspection.

7.1.8.3.10 Final inspection. The final inspection shall be made after all work required by the building permit is completed.

7.1.8.4 Special inspection agencies. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

7.1.8.5 Inspection requests. It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by "This Code".

7.1.8.6 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with "This Code". Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official. There shall be a final inspection and approval of all construction authorized by the permit when the work is completed and prior to any occupancy or use.

7.1.8.7 Gas Certificate. If, upon final gas piping inspections, the installation is found to comply with the provisions of "This Code", the technical codes and any other requirements of the jurisdiction, a certificate of inspection shall be issued by the Building Official. The serving gas supplier to the premises shall be notified of the approval. It shall be unlawful for any serving gas supplier, or person furnishing gas, to turn on, or cause to be turned on, any fuel gas or any gas meter or meters, until such certificate of final inspection has been issued. The certificate of inspection shall be of any form approved by the Building Official.

7.1.8.8 Electrical Certificate. If, upon final electrical inspections, the installation is found to comply with the provisions of "This Code", the technical codes and any other

requirements of the jurisdiction, a certificate of inspection shall be issued by the Building Official. The serving electrical supplier to the premises shall be notified of the approval. It shall be unlawful for any serving electrical supplier, or person furnishing electric, to turn on, or cause to be turned on, any electrical system or any electrical meter or meters, until such certificate of final inspection has been issued. The certificate of inspection shall be of any form approved by the Building Official.

SECTION 7.1.9 - CERTIFICATE OF OCCUPANCY/COMPLIANCE

7.1.9.1 Use and Occupancy. No building, structure or premise shall be used, occupied or open to the public, in whole or in part, and no change in the existing occupancy classification of a building, premise, structure or portion thereof shall be made until the Building Official has issued a temporary, partial or a full Certificate of Occupancy therefore as provided herein. Issuance of a Certificate of Occupancy shall not be construed as an approval to violate or cancel the provisions of "This Code" or of other ordinances of the jurisdiction.

7.1.9.2 Certificate of Occupancy. After the Building Official inspects the building or structure and finds no violations of the provisions of "This Code", other laws and any other requirements of the jurisdiction associated with the project whether onsite or offsite, the Building Official shall issue a Certificate of Occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. A description of that portion of the structure for which the certificate is issued.
4. A statement that the described portion of the structure has been inspected for compliance with the requirements of "This Code" for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
5. The name of the Building Official or authorized representative.
6. The edition of the code under which the permit was issued.
7. The use and occupancy.
8. The type of construction.
9. The design occupant load.
10. If an automatic sprinkler system is provided, whether the sprinkler system is required.
11. Any special stipulations and conditions of the certificate.

Exception:
A single family, detached dwelling unit, designated as an R-3 occupancies, and its accessory structures, regulated under the International Residential Code unless specifically requested by the permit holder or owner.

7.1.9.3 Temporary or Partial Occupancy. The Building Official is authorized to issue a temporary or partial Certificate of Occupancy before the completion of the entire work covered by or associated with the permit, provided that such portion or portions shall be

occupied or used safely. The Building Official shall set a time period during which the temporary Certificate of Occupancy is valid. The Building Official may revoke the Certificate of Occupancy for just cause.

7.1.9.4 Letter of Compliance. After the Building Official or designee inspects the building or structure and finds no violations of the provisions of "This Code" or of related land use and public health ordinances, rules and regulations, the Building Official may issue a Letter of Compliance. Such Letter of Compliance certifies that the work performed under the permit has been satisfactorily completed at the time of the inspection. The Letter of Compliance does not authorize the occupancy of the building or structure.

7.1.9.5 Revocation. The Building Official is authorized to, in writing, suspend or revoke a Certificate of Occupancy, Temporary Certificate of Occupancy or Partial Certificate of Occupancy issued under the provisions of "This Code" wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of "This Code" or ordinances of the jurisdiction.

7.1.9.6 Posting. The Certificate of Occupancy or the Temporary Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official.

Exception:
Single family, detached dwelling unit and its accessory structures.

SECTION 7.1.10 - SERVICE UTILITIES

7.1.10.1 Connection of Service Utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by "This Code" for which a permit is required, until authorized by the Building Official.

7.1.10.2 Temporary connection. The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

7.1.10.3 Authority to Disconnect Service Utilities. The Building Official shall have the authority to authorize disconnection of utility service to the building, premise, structure or system regulated by "This Code" and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and wherever possible the owner and occupant of the building, premise, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 7.1.11 - BOARD OF APPEALS

7.1.11.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of "This Code", there shall be and is hereby created a Board of Appeals. The Board of Appeals shall be appointed by the Town Council and shall hold office at its pleasure. The Board may adopt rules of procedure for conducting its business.

7.1.11.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of "This Code" or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of "This Code" do not fully apply, or an equally good or better form of construction is proposed. The Board shall have no authority to waive requirements of "This Code".

7.1.11.3 Qualifications. The Board of Appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

7.1.11.4 Administration. The Building Official shall take action in accordance with the decision of the Board.

SECTION 7.1.12 - VIOLATIONS

7.1.12.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure, premises or equipment regulated by "This Code", or cause same to be done, in conflict with or in violation of any of the provisions of "This Code" or any other laws or ordinances of this jurisdiction.

7.1.12.2 Notice of violation. The Building Official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of "This Code", or in violation of a permit or certificate issued under the provisions of "This Code". Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

7.1.12.3 Prosecution of violation. If the notice of violation is not complied with promptly, the Building Official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of "This Code" or of the order or direction made pursuant thereto.

7.1.12.4 Violation penalties. Any person who violates a provision of "This Code" or fails to comply with any of the requirements thereof or who erects, constructs, alters or

repairs a building or structure in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of “This Code”, shall be subject to penalties as prescribed by law. The violations of “This Code” are in addition to any other violation established by law.

SECTION 7.1.13 - STOP WORK ORDER

7.1.13.1 Authority. Whenever the Building Official finds any work regulated by “This Code” is being performed in a manner either contrary to the provisions of “This Code”, or if such work is dangerous or unsafe, the Building Official is authorized to issue a stop work order.

7.1.13.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner’s agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

7.1.13.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

SECTION 7.1.14 - UNSAFE STRUCTURES AND EQUIPMENT

7.1.14.1 Conditions. Structures or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be demolished and removed or made code compliant, as the Building Official deems necessary and as provided for in “This Code” or other ordinances or regulations of this jurisdiction. A vacant structure that is not secured against entry shall be deemed unsafe.

7.1.14.2 Notice. If an unsafe condition is found, the Building Official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the notice.

7.1.14.2.1 Method of service. Such notice shall be deemed properly served if a copy thereof is:

1. Delivered to the owner personally, or;
2. Sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested, or;
3. Delivered in any other manner as prescribed by local law.

If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

7.1.14.3 Imminent Danger. When, in the opinion of the Building Official, there is imminent danger of failure or collapse of a building, equipment or system that endangers life, or when any building or part of a building has fallen and life is endangered by the occupation of the building, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or dangerous equipment, the Building Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Building Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Building Official." It shall be unlawful for any person to remove such notice, to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

7.1.14.4 Temporary Safeguards. Notwithstanding other provisions of "This Code", whenever, in the opinion of the Building Official, there is imminent danger due to an unsafe condition, the Building Official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as deemed necessary to meet such emergency.

When necessary for public safety, the Building Official shall work closely with other public safety agencies and may temporarily close structures and order the authority having jurisdiction to close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

7.1.14.5 Emergency Repairs. When a condition of imminent danger exists, the Building Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible. The Town shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of costs incurred for emergency repairs.

7.1.14.6 Records. The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

7.1.14.7 Restoration. The structure or equipment determined to be unsafe by the Building Official is permitted to be restored to a code compliant condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Section 7.1.4 and "This Code".

7.1.14.8 Hazard Marking System. The Building Official, in conjunction with other public safety agencies, shall establish a hazard identification marking system to provide personnel responding to a fire or other emergency with a visual identification marking that the property is vacant, abandoned, or unsafe.

SECTION 7.2 AMENDMENTS

7.2.1 Amendments to the International Building Code

The following provision of the International Building Code, 2012 Edition, as published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

Chapter 2, Definitions.

Chapter 2 "Definitions", is herby amended by adding the following definitions:

PERSONAL CARE SERVICE The care of persons who do not require medical care. Personal care involves responsibility for the safety of persons while inside the building. Assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and administration of medications or treatments.

SUPERVISORY CARE SERVICE General supervision, including daily awareness of resident functioning and continuing needs.

DIRECTED CARE SERVICE Care of residents, including personal care services, who are incapable of recognizing danger, summoning assistance, expressing need, or making basic care decisions.

ASSISTED LIVING FACILITY A residential care institution, including adult foster care, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuing basis.

ASSISTED LIVING CENTER An assisted living facility that provides resident rooms or residential units to eleven or more residents.

ASSISTED LIVING HOME An assisted living facility that provides resident rooms to ten or fewer residents.

Chapter 3, Use and Occupancy Classification.

Sections 308.3, 308.4, 310.2, and 310.6 are amended to read as follows:

INSTITUTIONAL GROUP I

308.3 Institutional Group I-1. This occupancy shall include buildings, structures or portions thereof for more than 16 persons who reside on a 24 hour basis in a supervised environment, receive *custodial care*, and are capable of self-preservation. This group shall include, but not be limited to, the following:

Alcohol and drug centers
Assisted living facilities
Assisted living centers
Congregate care facilities
Convalescent facilities
Group homes
Halfway houses
Residential board and *custodial care* facilities
Social rehabilitation facilities

308.3.1 Five or fewer persons receiving care. A licensed care facility such as above with five or fewer persons receiving care shall be classified as a Group R-3 and shall comply with the International Residential Code.

308.3.2 Six to Ten Persons Receiving Care. A facility such as above, housing not fewer than six and not more than 10 persons receiving such care, may be classified as Group R-4.

308.4 Institutional Group I-2. This occupancy shall include buildings and structures used for *medical care* on a 24-hour basis for more than five persons who are *incapable of self-preservation*. This group shall include, but not be limited to, the following:

Foster care facilities
Detoxification facilities
Hospitals

Nursing homes
Assisted Living Centers
Psychiatric hospitals

308.4.1 Five or fewer persons receiving care. A licensed care facility such as above with five or fewer persons receiving care shall be classified as a Group R-3 and shall comply with the International Residential Code.

SECTION 310

310.2 Definitions The following terms are defined in Chapter 2:
ASSISTED LIVING FACILITY
ASSISTED LIVING CENTER
ASSISTED LIVING HOME
BOARDING HOUSE
CONGREGATE LIVING FACILITIES.
DIRECTED CARE SERVICES
DORMITORY
GROUP HOMES
PERSONAL CARE SERVICE
SUPERVISORY CARE SERVICES
TRANSIENT

Section 310.6 Residential Group R.

Replace text with the following language:

310.6 Residential Group R-4. A licensed care facility for more than 5 but not more than 10 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive *custodial care*, within a single-family dwelling. The persons receiving care are capable of self-preservation, except as provided for *assisted living homes.* This group shall include, but not be limited to, the following:

Alcohol and drug centers
Assisted living facilities
Assisted living homes
Congregate care facilities
Convalescent facilities
Group homes
Halfway houses
Residential board and *custodial care* facilities
Social rehabilitation facilities

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 and Section 425.

310.6.1. Condition 1. This occupancy condition shall include facilities licensed to provide supervisory care services, in which occupants are capable of self-preservation by responding to an emergency situation without physical assistance from staff. Condition I facilities housing more than 10 persons shall be classified as Group I-1.

310.6.2 Condition 2. This occupancy condition shall include facilities licensed to provide personal or directed care services, in which occupants are incapable of self-preservation by responding to an emergency situation without physical assistance from staff. Condition 2 facilities housing more than 10 persons shall be classified as Group I-2.

Chapter 4, Special Detailed Requirements based on Use and Occupancy.

Sections 406.3.4 is amended and a new Section 425 is added, as follows:

Section 406.3.4 Separation.

Add the following paragraph:

4. In buildings protected with an automatic fire sprinkler system, including the private garage, the room finish materials of the garage shall be permitted to be a minimum 1/2-inch (12.7 mm) gypsum board applied to the garage side.

Section 425 Residential Care/Assisted Living Homes.

Add a new Section 425 as follows:

SECTION 425 RESIDENTIAL CARE/ASSISTED LIVING HOMES

425.1 Applicability. The provisions of this section shall apply to a building or part thereof housing not more than 10 persons, excluding staff, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment, which provides licensed care services.

Except as specifically required by this division, R-4 occupancies shall meet all the applicable provisions of Group R-3.

425.2 General. Building or portions of buildings classified as R-4 may be constructed of any materials allowed by this code, shall not exceed two stories in height nor be located above the second story in any building and shall not exceed two thousand square feet above the first story, except as provided in Section 506.

425.3 Special Provisions. R-4 occupancies having more than 2000 square feet above the first story shall be of not less than one-hour fire-resistive construction throughout.

425.3.1 Mixed Uses. R-4 occupancies shall be separated from other occupancies as provided in Table 508.4.

425.4 Access and Means of Egress Facilities

425.4.1 Accessibility. R-4 occupancies shall be provided with at least one accessible route as provided in Section 1104.1.

425.4.2 Exits

425.4.2.1 Number of Exits. Every story, basement, or portion thereof shall have not less than two exits.

> Exception:
> Basements and stories above the first floor containing no sleeping rooms used by residents may have only one means of egress as provided in Chapter 10.

425.4.2.2 Distance to Exits. The maximum travel distance shall comply with Section 1016, except that the maximum travel distance from the center point of any sleeping room to an exit shall not exceed 75 feet.

425.4.2.3 Emergency Exit Illumination. In event of a power failure, exit illumination shall be automatically provided from an emergency system powered by storage batteries or an onsite generator set installed in accordance with the International Electric Code.

425.4.2.4 Emergency Escape and Rescue. R-4 occupancies shall comply with the requirements of Section 1029, except that Exception #1 to 1029 does not apply to R-4 occupancies.

425.4.2.5 Delayed Egress Locks. In R-4 Condition 2 occupancies, delayed egress locks shall be permitted in accordance with 1008.1.9.7, Items 1, 2, 4, 5, and 6.

425.5 Smoke Alarms and Sprinkler Systems.

425.5.1 Smoke Alarms. R-4 occupancies shall be provided with smoke alarms installed in accordance with 907.2.11.2, and such alarms shall be installed in all habitable rooms.

425.5.2 Sprinkler Systems. R-4 occupancies shall be provided with a sprinkler system installed in accordance with 903.3.1.3. Sprinkler systems installed under this section shall be installed throughout, including attached garages, and in Condition 2 facilities, shall include concealed spaces of or containing combustible materials. Such systems may not contain unsupervised valves between the domestic water riser control valve and the sprinklers. In Condition 2 occupancies, such systems shall contain water flow switches electrically supervised by an approved supervising station, and shall sound an audible signal at a constantly attended location.

Chapter 5, General Building Heights and Areas.

Section 501.2 is amended to read as follows:

Section 501.2 Premises identification.

Approved numbers or addresses shall be provided for all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters or per the Town Code, whichever is the more restrictive. Numbers shall be the minimum size required by the Fire Department or other Town requirements, whichever is more restrictive.

Chapter 9, Fire Protection Systems.

Sections 903.2 through 903.2.11.3 are deleted in their entirely and amended as follows:

903.2 Where required. All new building and structures shall be provided with an automatic sprinkler throughout.

Exceptions:

1. Detached single family dwellings, Group R-3 and their associated detached accessory structures not including Group R-4.

2. Detached telecommunication buildings not exceeding 600 square feet in floor area and not intended for occupancy other than maintenance purposes.

3. Detached accessory use structures such as gazebos, ramadas, guardhouses, restroom buildings at golf courses, parks and similar uses.

4. Detached canopies of type I or II construction not exceeding 3000 square feet in roof area located a minimum of 10 feet from buildings, structures and property lines.

5. Fire rated fabric shade canopies of type I or II framing construction not in excess of 3000 square feet in roof area located a minimum of 10 feet from buildings, structures and property lines.

6. Portable storage containers of type I or II construction not in excess of 360 square feet located a minimum of 10 feet from buildings structures, property lines and other containers, with no hazardous materials storage.

7. Factory built buildings less than 1,500 square feet used as temporary offices for real estate leasing or construction management and not to exceed 12 months from installation date.

8. Detached U occupancies of less than 3,000 square feet and located a minimum of 10 feet from buildings, structures and property lines.

9. Covered walkways of type I or II construction with no combustible storage underneath and approved by the fire code official.

903.2.1 Additions to Existing Buildings and Structure. Added as follows:
All additions to existing buildings or structures and all buildings or structures that are expanded by an addition(s) shall be provided with an approved automatic fire sprinkler system throughout all levels complying with section 903.2

Exception:
The maximum aggregate fire area of an addition (s) is less than 1,000 square feet or 10% of the floor area of the existing building or structure, whichever is less.

903.2.2 Change of Occupancy within hazard level 1. Added as follows:
An automatic fire sprinkler system shall be installed when a building, regardless of the building area, under goes a change of occupancy within hazard level 1 as defined by table 903.2.5

903.2.3 Change of Occupancy over 5,000 square feet. Added as follows:
An automatic fire sprinkler system shall be installed in any building 5,000 square feet or greater that under goes any change of occupancy.

903.2.4 Change of Occupancy less than 5,000 square feet. Added as follows:
An automatic fire sprinkler system shall be installed in any building less than 5,000 square feet that under goes a change of occupancy to a higher Level as defined by Table 903.2.5

Table 903.2.5
Existing Building Hazard Levels

Hazard Level	Building Occupancy Type*
1 (highest)	A, H, I, R-1, R-2, R-4
2	F-1, S-1
3	E, F-2, S-2
4 (lowest)	B, M, R-3, U

*Occupancies as defined in the Town of Queen Creek Building Code

Chapter 10 Means of Egress.

Section 1008.1.2 Door Swing.

Exception 4 is amended to read as follows:

4. Doors within or serving a single dwelling unit in Groups R-2 and R-3, as applicable and R-4.

Section 1016.2 Limitations.

Section 1016.2 Limitations.

New subsection 1016.2.2 added to read as follows:

1016.2.2 Group F-1 and S-1 increase. The maximum exit access travel distance shall be 400 feet (122 m) in Group F-1 and S-1 occupancies where all of the following are met:

1. The portion of the building classified as Group F-1 or S-1 is limited to one story in height.
2. The minimum height from the finished floor to the bottom of the ceiling or roof slab or deck is 24 feet (7315 mm); and
3. The building is equipped throughout with an automatic fire sprinkler system in accordance with Section 903.3.1.1.

Chapter 11, Accessibility.

Sections 1101.1, 1101.2, and 1103.2.4 are amended to read as follows:

Section 1101.1 Scope.

1101.1 Scope. The provisions of this chapter and Arizona Revised statutes, ARS sections 41-1492 through 41-1492.12 shall control the design and construction of facilities for accessibility to physically disabled persons.

Section 1101.2 Design.

1101.2 Design. Buildings and facilities shall be designed and constructed to be *accessible* in accordance with this code and ICC A117.1 and in accordance with provisions State of Arizona Attorney General Administrative Rules R10-3-401 through R-10-3-404 (2010 ADA Standards for Accessible Design, referred to as "2010 Standards", adopted by the U.S. Department of Justice), whichever standard provides the greatest degree of accessibility.

Section 1103.2.4 Detached dwellings.

A new Section 1103.2.4.1 is added to read as follows:

1103.2.4.1 Home Occupations. Home occupations as defined in the Town Code are not required to be accessible. For all other combinations of businesses in Group R occupancies, the business portion shall be accessible and shall include a minimum of one accessible toilet room and an accessible route from the business portion to the accessible toilet room, accessible parking space and public sidewalk.

Chapter 12, Sound Transmission.

A new Section 1207.4 is added to read as follows:

Section 1207.4 Maximum Residential Interior Noise Level.

All residences shall be constructed in accordance with the requirements as described in Article 4.15 of the Queen Creek Zoning Ordinance.

Chapter 16, Structural Design.

Table 1607.1 is amended to read as follows:

Table 1607.1 Minimum Uniformly Distributed Live Loads and Minimum Concentrated Live Loads

Revise Item 25, Residential – revise two values in the Table, and delete footnote j, replacing it as follows:

OCCUPANCY OR USE	UNIFORM (psf)	CONCENTRATED (lbs.)
25. Residential One- and two-family dwellings Uninhabitable attics with limited storage i,j,k Habitable attics and sleeping areas	~~20~~ **40** ~~30~~ **40**	

j. For trussed systems, this live load need not be considered as acting simultaneously with other live loads imposed upon the ceiling framing or its supporting structure.

Chapter 31, Special Construction.

Section 3109 Swimming Pool Enclosures and Safety Devices.

Section 3109 is hereby amended to read as follows:

3109 Swimming pool enclosures and safety devices. Swimming pool enclosures and safety devices shall comply with Appendix G of the International Residential Code.

Appendices.

The following appendices are adopted:

Appendix C, Group U - Agricultural Buildings
Appendix I, Patio Covers
Appendix J, Grading

7.2.2 Amendments to the International Residential Code

The following provision of the International Residential Code, 2012 Edition, published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

Chapter 3, Building Planning.

Sections R302.1, R302.2, R302.3, R302.4, R310.2.2, R313, R318.1, R319.1, R322.1.1, and R322.2, and Tables R301.2(1) and R301.5 are amended to read as follows:

Section R302.1 Exterior walls is amended to read as follows:

R302.1 Exterior walls. Exterior walls with a fire separation distance less than 3 feet (914mm) shall have not less than a one-hour fire-resistive rating with exposure from both sides. Projections shall not extend to a point closer than 2 feet (610 mm) from the line used to determine the fire separation distance.

Exception:
Detached garages accessory to a dwelling located within 2 feet of a lot line may have roof eave projections not exceeding 4 inches.

Add a new Section R302.2 to read as follows:

R302.2 Projections. Projections with a fire separation distance less than 3 feet (914mm) shall have one-hour fire-resistive construction on the underside. The above provisions shall not apply to walls which are perpendicular to the line used to determine the fire separation distance.

Exception:
Tool and storage sheds, playhouses and similar structures exempted from permits are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.

Add a new Section R302.2 to read as follows:

R302.3 Openings. Openings shall not be permitted in the exterior wall of a dwelling or accessory building with a fire separation distance less than 3 feet (914 mm). The above provisions shall not apply to walls which are perpendicular to the line used to determine the fire separation distance.

Section R302.2.4 Structural Independence.

Replace Exception 5 to read as follows:

5. Post tensioned slabs and foundations.

R310.2.2 Drainage is hereby deleted in its entirety.

Section R313 Automatic Sprinkler Systems is hereby deleted in its entirety.

Section R318.1 is amended to read as follows:

R318.1 Subterranean termite control methods. In areas designated as slight to moderate, moderate to heavy, and very heavy, as indicated by Table R301.2(1), methods of protection shall be one of the following methods or a combinations of these methods:

Section 319.1 Premises identification.

Add the following language at the end of the paragraph:

These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters or per the Town Code, whichever is the more restrictive. Numbers shall be the minimum size required by the Fire Department or other Town requirements, whichever is more restrictive.

Section R322.1.1 Model Home complex.

Add a new section to read as follows:

R322.1.1 Model Home complex. At least one single family dwelling as part of a model home complex as described in Town Codes and Ordinances shall have a no-step entrance.

Residential single family dwellings, as part of a model home complex, as described in Town Codes and Ordinances, shall have a route of travel as described herein. The route of travel shall be a continuous no–step path connecting each subdivision

sales office or public way to the primary entry. The route of travel shall conform to the following requirements:

1. The running slope shall not exceed 1:12.
2. Routes of travel complying with this section are not required to have handrails.
3. The route of travel shall be a firm, stable, and slip resistant surface for a minimum width of 36 inches (914 mm) continuous and clear for a height of 7 feet above the route.
4. The entry to the model home shall have a maneuvering space of a minimum 48 inches (1219 mm) by 48 inches (1219 mm) on the exterior side of the entry door.
5. The threshold at the entry shall not exceed ½ inch (13 mm).
6. The no step entry shall be identified by a readily viewable sign.

If public restrooms are provided for residential development models, such restroom facilities shall be accessible and shall be provided by either of the following methods:

1. Converting one ground model home restroom into an ADA accessible unisex facility; or
2. Providing one ADA accessible unisex portable toilet and hand washing unit located on an accessible route. The accessible portable toilet facility shall be removed when the sales office is permanently closed.

Table R301.2(1) Climatic and Geographic Design Criteria.

Insert the following into Table R301.2(1):

Ground Snow Load: N/A
Wind speed: 90 mph, Exposure C
Seismic Design Category: B
Weathering: NEGLIGIBLE
Frost Line Depth: 12”
Termite: MODERATE TO HEAVY
Decay: NONE TO SLIGHT
Winter Design Temperature: 32 degrees F
Ice Barrier Underlayment Required: NO
Flood Hazards: (a) July 25, 1990, (b) October 16, 2013 (Maricopa County) December 4, 2007 (Pinal County)
Air Freezing Index: NO
Mean Annual Temp: 70º F

Table R301.5 Minimum Uniformly Distributed Live Loads.

Revise the Table R301.5, and add a new footnote i:

USE	LIVE LOAD
Attics with storage [b, g]	~~20~~ **40**
Sleeping rooms	~~30~~ **40**

i. For trussed systems, this load need not be considered as acting simultaneously with other live loads imposed upon the ceiling framing or its supporting structure.

Chapter 4, Foundations.

Section R403.1.1 is amended to read as follows:

Section R403.1.1 Minimum size.

Add the following exception:

Exception:
For enclosure of existing carports and patio covers, nonbearing wood-framed exterior walls within the projection of the existing roof may be supported on an existing, uncracked concrete slab. The minimum slab thickness shall be 3½ inches and the construction shall comply with the requirements of R319 for protection against decay.

Chapter 7, Wall Covering.

Section R703.6.2.1 is amended to read as follows:

Section R703.6.2.1 Weep screeds.

Add the following exception:

Exception:
At no-step entries to a residence a weep screed may be installed over an approved drain channel. The drain channel shall drain to an approved area.

Chapter 11, Energy Efficiency.

Chapter 11, Energy Efficiency is amended as follows:

Sections N1101.7.1, N1101.15.1, R401.2.1, N1101.17, R401.4, N1103.2, N1103.2.1, N1103.2.2.1, R403.2.2.1are hereby amended as follows:

N1101.7.1 RESNET Testing & Inspection Protocol. The Residential Energy Services Network (RESNET) Mortgage Industry National Home Energy Rating System Standards Protocol for third party testing and inspections, shall be deemed to meet the

requirements of sections N1102.4.1.1, N1102.4.1.2 and N1103.2.2. and shall meet the following conditions:

1. Third Party Testing and Inspections shall be completed by RESNET certified Raters or Rating Field Inspectors and shall be subject to RESNET Quality Assurance Field Review procedures.
2. Sampling in accordance with Chapter 6 of the RESNET Standards shall be performed by Raters or Rating Field Inspectors working under a RESNET Accredited Sampling Provider.
3. Third Party Testing is required for the following items:
a. N1102.4.1.1 –Building Envelope – Thermal and Air Barrier Checklist
b. N1102.4.1.2 –Testing – Air Leakage Rate
c. N1103.2.2 – Sealing – Duct Tightness
4. The other requirements identified as “mandatory” in Chapter 11 shall be met.
5. Alternate testing and inspection programs and protocols shall be allowed when approved by the Code Official.

N1101.15.1 (R401.2.1) Alternative approach for compliance. A Home Energy Rating System (“HERS”) Index of 73 or less, confirmed in writing by a Residential Energy Services Network certified energy rater may be used in place of the approach described in section N1101.15. Compliance may be demonstrated by sampling in accordance with Chapter 6 of the Mortgage Industry National Home Energy Rating Systems Standard as adopted by the Residential Energy Services Network.

Section N1101.17 (R401.4) New section to read as follows:

All mandatory testing and inspections required by this chapter shall be conducted in accordance with Chapter 8 of the Mortgage Industry National Home Energy Rating Standards as adopted by the Residential Energy Services Network. Compliance with mandatory testing may be demonstrated through the use of sampling in accordance with Chapter 6 of the Mortgage Industry National Home Energy Rating Standards as adopted by the Residential Energy Services Network.

N1103.2 Ducts. Ducts and air handlers shall be in accordance with Sections N1103.2.1 through 1103.2.3.

N1103.2.1 Insulation (Prescriptive). Supply ducts shall be insulated to a minimum of R-8. Ducts in floor trusses shall be insulated to a minimum of R-6.
Exceptions: Ducts or portions thereof located completely inside the building thermal envelope.

1. Ducts or portions thereof located completely inside the building thermal envelope.
2. Supply and return ducts may be insulated to a minimum of R-6 when one or more of the following conditions are met;
2.1. Minimum SEER rating of space heating/cooling system is increased

to 15
2.2.Maximum U-factor is decreased to 0.35 and maximum SHGC is decreased to 0.22 for all fenestration products
2.3.Wall cavity insulation minimum R-value is increased to R-19.
2.4.Residential buildings that meet section N1101.7 or section R405 of the *2012 International Energy Conservation Code*.
2.5.Residential buildings with attic radiant barriers in accordance with ASTM C1313, installed in accordance with ASTM C1743.

Sections N1103.2.2.1 (R403.2.2.1) are hereby deleted in their entirety.

Section M1411.6 Locking access port caps is hereby deleted in its entirety.

Section M1901.3 Prohibited Locations is hereby deleted in its entirety.

Table E3603.1 Service conductor and grounding electrode conductor sizing. New column added as follows:

CONDUCTOR TYPES AND SIZES-THHW, THW, THWN, USE, EXHHW (Parallel sets of 1/0 and larger conductors are permitted in either a single raceway or in separate raceways)		Service or Feeder Rating (Amperes)	
Copper (AWG)	Aluminum and copper-clad aluminum (AWG)	≤ 30ºC (86ºF)	> 30ºC (86ºF)
4	2	100	
3	1	110	
2	1/0	125	100
1	2/0	150	125
1/0	3/0	175	150
2/0	4/0 or two sets of 1/0	200	175
3/0	250 kcmil or two sets of 2/0	225	200
4/0 or two sets of 1/0	300 kcmil or two sets of 3/0	250	225
250 kcmil or two sets of 2/0	350 kcmil or two sets of 4/0	300	250
350 kcmil or two sets of 3/0	500 or two sets of 250 kcmil	350	300
400 kcmil or two sets of 4/0	600 or two sets of 300 kcmil	400	350
500 kcmil	750 kcmil		400

(Minimum grounding electrode conductor size and footnotes to remain.)

Section E3902.2 Garage and accessory building receptacles is hereby amended by adding the following exceptions:

Exceptions:
1. Receptacles that are not readily accessible.

2. A single receptacle or a duplex receptacle for 2 applications located within dedicated space for each appliance that in normal use is not easily moved from one place to another, and that is cord-and- plug connected.

Appendices.

The following appendices are adopted:

Appendix B:
Appendix C:
Appendix D:
Appendix G: (as amended)
Appendix H:
Appendix K: (as amended)

Appendix G, Swimming Pools, Spas and Hot Tubs.

Is hereby deleted in its entirety and replaced with the following:

SECTION AG101 - SCOPE

AG101.1 General. The provisions of this Appendix shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a detached one- or two-family dwelling or a one-family townhouse.

The purpose of these requirements is to provide an integrated level of protection against potential swimming pool drowning through the use of physical barriers and warning devices. It is not intended as a substitute for adult supervision of children.

Swimming pools constructed prior to the effective date of this Appendix, need only comply with the required pool barrier requirements in effect at the time of permit issuance. All pools constructed after the effective date of “This Code” shall meet or exceed the requirements within this Appendix.

AG101.2 Notice Required. A person, on entering into an agreement to build a swimming pool or contained body of water shall give the buyer, lessee or renter a notice explaining safety education and responsibilities of pool ownership as approved by the State and/or County Department of Health Services.

AG101.3 Submittal Requirements. All swimming pool plans are required to identify the location of the required swimming pool barrier fencing, the height of the fencing, and all details necessary to show compliance with the requirements within this Appendix. When plans are submitted for a pool permit, they must show at a minimum, the following:

1. An accurate outline of the swimming pool or spa.

2. Location of the swimming pool (and rock formations and waterfalls) with dimensions to each lot line, dwelling and any accessory structure and equipment location.
3. Location of any exterior doors or windows opening into the area of the swimming pool.
4. Location and height of the pool barrier (fence) and gate(s).
5. Details of the construction of the barrier to include materials, size of all openings within the barrier, etc.
6. All necessary information required to show compliance with this Appendix.

AG101.4 Easements. If there is an easement affecting the property, the swimming pool, decking and pool equipment cannot violate/disturb the easement unless approved by the Town.

AG101.5 Zoning Ordinance. The general design, materials, and appearance of the required Pool Barrier shall meet the requirements of the Town's Zoning Ordinance, however, in all cases shall meet the minimum safety requirements of this Appendix.

AG101.6 Setbacks. The swimming pool water's edge shall be set back from all lot lines a distance of not less than three (3) feet.

SECTION AG102 - DEFINITIONS

AG102.1 General. For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

ABOVE-GROUND/ON-GROUND POOL. See "Swimming pool."

BARRIER. A permanent fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool. As used within this Appendix, permanent shall mean not being able to be removed, lifted or relocated without the use of tools.

HOT TUB. See "Swimming pool."

IN-GROUND POOL. See "Swimming pool."

RESIDENTIAL. That which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse.

SPA, NONPORTABLE. See "Swimming pool."

SPA, PORTABLE. A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that is designed to contain water 18" inches or more in depth. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

SWIMMING POOL, INDOOR. A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of the enclosing structure.

SWIMMING POOL, OUTDOOR. Any swimming pool which is not an indoor pool.

SWIMMING POOL, PUBLIC OR SEMI-PUBLIC. Any swimming pool which is not accessory to a residential use as defined herein.

SECTION AG103 - SWIMMING POOL REQUIREMENTS

AG103.1 In-ground pools. In-ground pools shall be designed and constructed in conformance with ANSI/NSPI-5 as listed in Section AG108.

AG103.2 Above-ground and on-ground pools. Above-ground and on-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Section AG108.

AG103.3. Public or Semi-public swimming pools. Shall comply with State and County Requirements.

SECTION AG104 - SPA AND HOT TUB REQUIREMENTS

AG104.1 Permanently installed spas and hot tubs. Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3 as listed in Section AG108.

AG104.2 Portable spas and hot tubs. Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in Section AG108.

SECTION AG105 - BARRIER REQUIREMENTS

AG105.1 Application. The provisions of this Appendix shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs. There are no exemptions for households without children.

AG105.1.1 Effective Date. All swimming pools, spas and hot tubs installed in or on the lot of a one- or two-family dwelling on or after the effective date of the ordinance adopting this Appendix shall be enclosed by a permanent fence, wall or barrier, as set forth in this Appendix.

AG105.1.2 Special Considerations. It is the responsibility of the property owner and any other person in responsible charge of a swimming pool to insure that the required swimming pool barrier, including all gates, doors, locks, latches and other portions of the barrier, are maintained safe and in good working order at all times. No person shall alter or remove any portion of a swimming pool barrier except to repair, reconstruct or replace the barrier in compliance with the provisions of this Appendix.

AG105.1.3 Approval Required. No swimming pool, spa or hot tub shall be filled in whole or in part with water unless the pool enclosure has been installed in accordance with this Appendix and approved by the Building Official.

AG105.1.4 Temporary Fencing Unsuitable. Plastic mesh and fences defined by the manufacturer as a temporary or removable fence, even if indicated as a swimming pool barrier, are deemed unsuitable for the purposes of this Appendix regardless of any modifications proposed to make said fence compliant.

AG105.2 Outdoor swimming pool. An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be completely surrounded by a barrier which shall comply with the pool barrier requirements as described in Article 6.1 of the Queen Creek Zoning Ordinance.

AG105.3 Indoor swimming pool. All walls surrounding an indoor swimming pool shall comply with the pool barrier requirements of AG105.2.

AG105.4 Prohibited locations. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers. For the purposes of structures, equipment or similar objects, the nearest edge being a minimum of three (3) feet or more horizontal distance away from the required barrier shall be considered adequate for the determination of not being used to climb the barrier.

AG105.5 Barrier exceptions. Spas or hot tubs with a safety cover which complies with ASTM F 1346, shall be exempt from the provisions of this Appendix.

SECTION AG106 - ENTRAPMENT PROTECTION FOR SWIMMING POOL AND SPA SUCTION OUTLETS

AG106.1 General. Suction outlets shall be designed to produce circulation throughout the pool or spa. Single outlet systems, such as automatic vacuum cleaner systems, or other such multiple suction outlets whether isolated by valves or other-wise shall be protected against user entrapment.

AG106.2 Suction fittings. All Pool and Spa suction outlets shall be provided with a cover that conforms with ANSI/ASME A112.19.8M, or a 12" x 12" drain grate or larger, or an approved channel drain system.

Exception:
Surface skimmers

AG106.3 Atmospheric vacuum relief system required. All pool and spa single or multiple outlet circulation systems shall be equipped with atmospheric vacuum relief should grate covers located therein become missing or broken. Such vacuum relief systems shall include at least one approved or engineered method of the type specified herein, as follows:

1. Safety vacuum release system conforming to ASME A112.19.17, or
2. An approved gravity drainage system

AG106.4 Dual drain separation. Single or multiple pump circulation systems shall be provided with a minimum of two (2) suction outlets of the approved type. A minimum horizontal or vertical distance of three (3) feet shall separate such outlets. These suction outlets shall be piped so that water is drawn through them simultaneously through a vacuum relief-protected line to the pump or pumps.

AG106.5 Pool cleaner fittings. Where provided, vacuum or pressure cleaner fitting(s) shall be located in an accessible position(s) at least (6) inches and not greater than twelve (12) inches below the minimum operational water level or as an attachment to the skimmer(s).

SECTION AG107 - ABBREVIATIONS

1. ANSI. American National Standards Institute
   11 West 42nd Street, New York, NY 10036
2. ASTM. American Society for Testing and Materials
   1916 Race Street, Philadelphia, PA 19103
3. NSPI. National Spa and Pool Institute
   2111 Eisenhower Avenue, Alexandria, VA 22314

SECTION AG108 - STANDARDS

1. ANSI/NSPI-3-99 Standard for Permanently Installed Residential Spas
2. ANSI/NSPI-4-99 Standard for Above-ground/On-ground Residential Swimming Pools
3. ANSI/NSPI-5-99 Standard for Residential In-ground Swimming Pools
4. ANSI/NSPI-6-99 Standard for Residential Portable Spas
5. ANSI/ASME A112.19.8M-1987 Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs and Whirlpool Bathing Appliances

6. ASTM F 1346-91 (1996) Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs
7. ASME A112.19.17 Manufacturers Safety Vacuum Release Systems (SVRS) for Residential and Commercial Swimming Pool, Spa, Hot Tub and Wading Pool

Appendix K, Sound Transmission.

Add the following new section AK102.2 tioread as follows:

AK102.2 Sound Attenuation. All residences shall be constructed in accordance with the requirements as described in Article 4.15 of the Queen Creek Zoning Ordinance.

7.2.3 Amendments to the International Mechanical Code

The following provision of the International Mechanical Code, 2012 Edition, as published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

7.2.4 Amendments to the National Electrical Code

The following provision of the National Electrical Code, 2011 Edition, as published by the National Fire Protection Association, is hereby amended or modified as follows:

Article 90, Introduction.

Article 90.1 is amended to read as follows:

Article 90.1 Purpose.

Add a new subsection (E) as to read as follows:

(E) Administration. For administration of this Code, refer to Section 7.1 of the Town Code.

210.8 Ground Fault Circuit interceptor protection for personnel.

(A) Dwelling Units

Add two exceptions to read as follows:

Exceptions:
1. Receptacles that are not readily accessible.

2. A single receptacle or a duplex receptacle for 2 applications located within dedicated space for each appliance that in normal use is not easily moved from one place to another, and that is cord-and- plug connected.

Article 230 Services

Add a new subsection 230.11 to read as follows:

230.11 Performance Testing. All service entrance equipment and associated equipment rated 1000 amperes or more, or where otherwise required by the servicing utility company, or registered design professional shall be performance tested (high potential testing) when first installed on site. The test shall be conducted in accordance with instructions that shall be provided with the equipment. A written record of the test shall be made and shall be available to the authority having jurisdiction.

Add a new subsection 230.63 to read as follows:

230.63 Location. All service equipment rated at 1000 amperes or more and located inside a building shall be enclosed within a room or space separated from the rest of the building by not less than one-hour fire-resistive occupancy separation or fire barrier installed in compliance with the International Building Code.

Article 310 Conductors for General Wiring.

Table 310-15 (B)(7) is amended to read as follows:

Table 310-15 (B)(7). Conductor Types and Sizes for 120/240-Volt and 120/208-Volt, 3-Wire, Single-Phase Dwelling Services and Feeders. Conductor types RHH, RHW, RHW-2, THHN, THHW, THW, THW-2, THWN, THWN-2, XHHW, XHHW-2, SE, USE, USE-2 – New column added as follows:

Conductor (AWG or kcmil)			
Copper	Aluminum or Copper-Clad Aluminum	Service or Feeder Rating (Amperes)	
		≤ 30ºC (86ºF)	> 30ºC (86ºF)
4	2	100	----
3	1	110	----
2	1/0	125	100
1	2/0	150	125
1/0	3/0	175	150
2/0	4/0 or two sets of 1/0	200	175
3/0	250	225	200
4/0	300	250	225
250	350	300	250
350	500	350	300
400	600	400	350
500	750	----	400

7.2.5 Amendments to the International Plumbing Code

The following provision of the Uniform Plumbing Code, 2012 Edition, as published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

Sections 410.3, 504.6, 504.7.2, 903.1, Chapter 13, and Appendix B are amended to read as follows:

410.3 Substitution. The last sentence of the section revised to read as follows:

In other occupancies, where drinking fountains are required, bottled water dispensers or water coolers shall be permitted to be substituted.

504.6 Requirements for discharge pipe. Items number 5 and 10 revised to read as follows:

5. Discharge to an indirect waste receptor or to the outdoors.

10. Shall terminate not less than 6 inches (152 mm) and not more than 24 inches (610 mm) above the adjacent ground surface.

An exception is added to Section 504.7.2 to read as follows:

Exception:
Where structural conditions do not permit extending the drain to the exterior the drain may extend to and terminate not less than 6 inches (152 mm) and not more than 24 inches (610 mm) above the adjacent garage floor surface sloped to drain to the exterior.

Section 607.2 Hot or tempered water supply to fixtures. Is hereby deleted.

Section 903.1 Roof extension. Is hereby amended by inserting the number 6 as the number of inches and 152 as the number of mm.

Chapter 13, Gray Water Recycling Systems is hereby deleted in its entirety.

Appendices.

The following appendices are adopted:

Appendix B: (as amended)
Appendix E:
Appendix F:

APPENDIX B, RATES OF RAINFALL FOR VARIOUS CITIES.
Is hereby amended to read as follows: Arizona: Queen Creek……...6.0

7.2.6 Amendments to the International Fuel Gas Code

The following provision of the International Fuel Gas Code, 2012 Edition, as published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

Section 404.12 Minimum burial depth is deleted in its entirety and revised to read as follows:

404.12 Minimum burial depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade for metal piping and 18 inches (457 mm) for plastic piping.

404.12.1 Individual outside appliances is hereby deleted in its entirety.

Section 404.17.3 is hereby amended to read as follows:

404.17.3 Tracer. An insulated copper tracer wire or other approved conductor shall be installed adjacent to underground nonmetallic piping. Access shall be provided to the tracer wire or the wire shall terminate above ground at each end of the nonmetallic piping. The tracer wire shall be not less than 18 AWG.

Section 406.4 is herby amended to read as follows:

406.4 Test pressure measurement. Amended to read as follows and
This inspection shall be made after all piping authorized by the permit has been installed and prior to concealment. An additional inspection is required after all portions thereof which are to be covered or concealed are so concealed and before any fixtures or appliances have been attached thereto. This inspection shall include an air, Co2 or nitrogen pressure test, at which time the gas piping shall stand a pressure of not less than ten (10) pounds per square inch (68.9 kPa) gauge pressure, or at the discretion of the Administrative Authority, the piping and valves may be tested at a pressure of at least six (6) inches (152.4mm) of mercury, measured with a manometer or slope gauge. Test pressures shall be held for a length of time satisfactory to the Administrative Authority, but in no case for less than fifteen (15) minutes, with no perceptible drop in pressure. For welded piping, and piping carrying gas at pressures in excess of fourteen (14) inches (0.4m) water column pressure, the test pressure shall not be less than sixty (60) pounds per square inch (413.4 kPa) and shall be continued for a length of time

satisfactory to the Administrative Authority, but in no case for less than thirty (30) minutes. These tests shall be made using air, Co2, or nitrogen pressure only and shall be made in the presence of the Administrative Authority. All necessary apparatus for conducting tests shall be furnished by the permit holder.

Sections 406.4.1 and 406.4.2 are hereby deleted in their entirety:

7.2.7 Amendments to the International Existing Building Code

The following provision of the International Existing Building Code, 2012 Edition, published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

7.2.8 Amendments to the International Energy Conservation Code

The following provision of the International Energy Conservation Code, 2012 Edition, as published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

Sections C101.2, R101.2, R102.1.2, R401.2.1, R403.2, R403.2.1 and R403.2.2.1 are hereby amended as follows:

C101.2 Scope. This code applies to *commercial buildings* and the building sites and associated systems and equipment. Group R-2 when defined as a *Commercial Building* by section C202, shall have the option of complying under the Residential Provisions of the code, regardless of height. Once defined as such on the submittal documents, all components of the Residential Provisions shall be followed.

R101.2 Scope. This code applies to residential buildings and the building sites and associated systems and equipment. Group R-2 when defined as a Residential Building by section R202, shall have the option of complying under the Commercial Provisions of the code, regardless of height. Once defined as such on the submittal documents, all components of the Commercial Provisions shall be followed.

R102.1.2 RESNET Testing & Inspection Protocol. The Residential Energy Services Network (RESNET) Mortgage Industry National Home Energy Rating System Standards Protocol for third party testing and inspections, shall be deemed to meet the

requirements of sections R402.4.1.1, R402.4.1.2 and R403.2.2. and shall meet the following conditions:

1. Third Party Testing and Inspections shall be completed by RESNET certified Raters or Rating Field Inspectors and shall be subject to RESNET Quality Assurance Field Review procedures.
2. Sampling in accordance with Chapter 6 of the RESNET Standards shall be performed by Raters or Rating Field Inspectors working under a RESNET Accredited Sampling Provider.
3. Third Party Testing is required for the following items:
a. R402.4.1.1 –Building Envelope – Thermal and Air Barrier Checklist
b. R402.4.1.2 –Testing – Air Leakage Rate
c. R403.2.2 – Sealing – Duct Tightness
4. The other requirements identified as “mandatory” in Chapter 4 shall be met.
5. Alternate testing and inspection programs and protocols shall be allowed when approved by the Code Official.

R401.2.1 Alternative approach for compliance. A Home Energy Rating System (“HERS”) Index of 73 or less, confirmed in writing by a Residential Energy Services Network certified energy rater may be used in place of the approach described in section 401.2 above. Compliance may be demonstrated by sampling in accordance with Chapter 6 of the Mortgage Industry National Home Energy Rating Systems Standard as adopted by the Residential Energy Services Network.

R403.2 Ducts. Ducts and air handlers shall be in accordance with Sections R403.2.1 through R403.2.3.

R403.2.1 Insulation (Prescriptive). Supply ducts in attics shall be insulated to a minimum of R-8. Ducts in floor trusses shall be insulated to a minimum of R-6.
Exceptions: Ducts or portions thereof located completely inside the building thermal envelope.
1. Ducts or portions thereof located completely inside the building thermal envelope.
2. Supply ducts may be insulated to a minimum of R-6 when one or more of the following conditions are met;
2.1 Minimum SEER rating of space heating/cooling system is increased to 15.
2.2 Maximum U-factor is decreased to 0.35 and maximum SHGC is decreased to 0.22 for all fenestration products.
2.3 Wall cavity insulation minimum R-value is increased to R-19.
2.4 Residential buildings that meet the requirements of sections R102.1.1 or R405.
2.5 Residential buildings with attic radiant barriers in accordance with ASTM C1313, installed in accordance with ASTM C1743.

Section R403.2.2.1. Sealed air handler is deleted in its entirety.

7.2.9 Amendments to the International Property Maintenance Code

The following provision of the International Property Maintenance Code, 2012 Edition, as published by the International Code Council, is hereby amended or modified as follows:

Chapter 3, General Requirements.

Sections 303.2 and 304.14 are amended to read as follows:

Section 303.2 Enclosures.

Replace with the following language:

Swimming pool enclosures shall comply with the requirements of Appendix G of the Queen Creek Residential Building Code.

Section 304.14 Insect screens is hereby deleted in its entirety.

Chapter 6, Mechanical and Electrical Requirements.

Sections 602.3 and 602.4 are amended to read as follows:

Section 602.3 Heat supply.

1. Insert the following dates: "November 1 to April 1".
2. Delete both Exceptions.

Section 602.4 Occupiable work spaces.

Insert the following dates: "November 1 to April 1".

7.2.10 Amendments to the International Wildland-Urban Interface Code

The following provision of the International Wildland-Urban Interface Code, 2012 Edition, as published by the International Code Council, is hereby amended or modified as follows:

Chapter 1, Administration.

Chapter 1, "Administration", is hereby deleted except as follows: For administration of this Code, refer to Section 7.1 of the Town Code.

Appendices.

The following appendices are adopted:

Appendix A, General Requirements

Appendix B, Vegetation Management Plan
Appendix C, Fire Hazard Severity Form

7.2.11 Amendments to the International Fire Code

The *International Fire Code*, 2012 Edition, as published by the National Fire Prevention Association, is hereby amended or modified as follows:

101.1 Title. This code shall be known as the Town of Queen Creek Fire Code, may be cited as such, and hereinafter referred to as "this code."

105.2.3 Time limitation of application. An application for a permit for any proposed work or operation shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit shall have been issued; except that the fire code official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days upon written request by the owner or applicant showing that circumstances beyond the control of the applicant have prevented action from being taken.

105.6.16 Flammable and combustible liquids. An operational permit is required:

1. To store, handle or use more than 10 gallons of Class I-A or more than 30 gallons of Class I-B or I-C liquids (19 L) inside or outside a building,
2. To store, handle or use Class II or Class IIIA liquids in excess of 60 gallons inside or outside a building, except for fuel oil used in connection with oil-burning equipment.
3. To remove Class I or Class II liquids from an underground or aboveground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.
4. To operate equipment, tanks, plants, terminals, wells, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
5. To change the type of contents stored in a flammable or combustible liquid tank to a material which poses a greater hazard than that for which the tank was designed and constructed.
6. To utilize a site for the dispensing of Class II or III liquid fuels from tank vehicles into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.
   To slurry fill an underground tank.
7. To abandon an underground or aboveground tank.

105.6.27 LP-gas. An operational permit is required for:

1. LP-gas containers with an aggregate water capacity of 2,000 gallons or more used exclusively for vapor service.
2. Flaring off LP-gas prior to the abandonment or removal of an LP-gas container.
3. LP-gas containers used for liquid transfer service.

105.6.43 Temporary membrane structures, and tents. A permit is required to erect a temporary membrane structure, or a tent having an area in excess of 1600 square feet.

Exceptions:
1. Tents used exclusively for recreational camping.
2. Funeral tents and curtains or extensions attached thereto, when used for funeral services.

105.6.47 Aircraft refueling vehicles An operational permit is required to operate any refueling vehicle located within the Town of Queen Creek.

105.6.48 Commercial rubbish handling operation. An operational permit is required for the handling or storage of any commercial rubbish.

105.6.49 Recycling operations. An operational permit is required to operate commercial recycling operations.

105.6.50 Used or waste tires and tire byproducts. An operational permit is required to establish, conduct or maintain storage of 100 or more used or waste tires and tire byproducts that exceeds 2,500 cubic feet (71 m^3) of total volume of scrap tires in an open area or portion thereof outdoors and for indoor storage of tires and tire byproducts.

105.6.51 Health care facility inspections. An operational permit for health care facilities shall be required for a fire inspection which is conducted once per year and upon change of ownership. This includes adult care, hospitals and congregate living facilities. The fee schedule is based on the number of licensed beds as determined by ADHS.

Note: The annual inspection fee includes consulting services for fire and life safety concerns and maintenance issues. The annual fee does not include permit fees for new construction, remodeling or Annual Facility Permit (AFP) projects, or hazardous materials assessment fees.

105.6.52 Assisted living facilities inspections . An operational permit for assisted living facilities shall be required for a fire inspection which is conducted upon opening and once every three years or upon change of ownership, and complies with the Arizona Department of Health Services (ADHS) requirements.

This includes assisted living homes R-4, assisted living centers, supervisory care and adult foster care.

Note: The annual inspection fee includes consulting services for fire and life safety concerns and maintenance issues. The annual fee does not include permit fees for new construction, remodeling or Annual Facility Permit (AFP) projects, or hazardous materials assessment fees.

105.6.53 Commercial Daycare Facilities inspections . An operational permit shall be required for a thorough fire inspection which is conducted once per year and upon change of ownership.

105.6.54 Behavioral or Correctional facilities inspections. An operational permit shall be required for a fire inspection which is conducted once per year and upon change of ownership.

105.7 Required construction permits. The fire code official is authorized to issue permits for work as set forth in Section 105.7.1 through 105.7.29

105.7.2 Battery systems:

105.7.2.1 Stationary lead-acid. A construction permit is required to install or modify a stationary lead-acid battery system having a liquid capacity of more than 100 gallons in a sprinklered building or 50 gallons in a non-sprinklered building.

105.7.2.2 Valve-regulated lead-acid (VRLA). A construction permit is required to install or modify a valve-regulated lead-acid (VRLA) battery systems.

105.7.8 Flammable and combustible liquids. A permit is required to:

1. Temporarily or permanently install a storage tank or aboveground storage tank or pressure vessel for Class I, II or III-A liquids with a nominal capacity of 125 or more gallons located outside a building.
2. Temporarily or permanently install a storage tank or aboveground storage tank or pressure vessel for Class I, II or III-A liquids inside a building regardless of size.
3. Temporarily or permanently install a storage tank or aboveground storage tank or pressure vessel for Class III-B liquids with a nominal capacity of 1,000 gallons or more whether installed inside or outside a building.
4. Install, construct or equipment, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
5. Alter, remove, abandon or otherwise dispose of a flammable or

combustible liquid tank.

6. Construct or modify a flammable liquids room or warehouse.

105.7.9 Hazardous materials. A permit is required to:

1. Install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a storage facility or other area regulated by Chapter 27 when the hazardous materials in use or storage exceed the amounts listed in Permit Amounts and Fees By Hazardous Materials Classification and Quantity Table.
2. Install or modify a hazardous materials storage tank.
3. Install or modify a Group H-1, H-2, H-3, H-4 or H-5 occupancy.
4. Install or modify gas cabinets, exhausted enclosures, gas rooms or chemical drainage and containment.

Exceptions:

1. Routine maintenance.
2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

105.7.11 LP-gas. A permit is required to:

1. Install, alter or modify an LP-gas system.
2. Install, alter or modify LP-gas containers with an aggregate water capacity of 125 gallons or more used exclusively for vapor service.
3. Install, alter or modify racks storing 20-pound cylinders or larger for the purpose of conducting an LP-gas exchange program at a specific site.
4. Install, alter or modify LP-gas containers used for liquid transfer service.

Exception: A permit is not required to install, alter or modify portable containers of less than 125 gallon aggregate water capacity used exclusively for vapor service.

105.7.16 Temporary membrane structures, and tents. A permit is required to erect a temporary membrane structure, or a tent having an area in excess of 1600 square feet.

Exceptions:

1. Tents used exclusively for recreational camping.
2. Funeral tents and curtains or extensions attached thereto, when used for funeral services.

105.7.17 Access gates, fire apparatus. A permit is required to install, or

modify manual or automatic fire apparatus access gates and their appurtenances. This also includes gates for auxiliary access openings.

105.7.18 Fire apparatus access roads. A permit is required to install or modify fire apparatus access roads.

105.7.19 Alternative surface access roads. A permit is required to install or modify alternative surface fire apparatus access roads.

105.7.20 Fire protection equipment. A permit is required for installation or modification, or removal from service of any fire protection system, automatic sprinkler system, automatic underground, standpipe, fire main, fire pump, fire hydrant, halon or any other extinguishing device or equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

105.7.21 Flammable finishes. A permit is required to install or modify a spray booth, spray room, spray area, or powder coating booth.

105.7.22 Kitchen hoods systems, commercial. A permit is required to install or modify fire suppression systems installed above commercial cooking equipment.

105.7.23 Refrigeration system, anhydrous ammonia. A permit is required to install, alter or modify an anhydrous ammonia refrigeration system.

105.7.24 Special extinguishing systems. A permit is required to install, alter or modify special extinguishing systems, including but not limited to, Halon, dry chemical, carbon dioxide, FM200.

109.4. Civil actions or criminal citations. Any person, firm, or corporation who causes, permits, facilitates aids or abets any violation of this Code or who fails to perform any act or duty required by this Code is subject to a civil sanction of not less than 500 dollars ($500) nor more than 2500 dollars ($2500) or a Class 1 criminal misdemeanor.

109.4.1 Commencement of civil action. Any civil action to enforce the provisions of this Code shall be commenced, and summons shall be issued, in accordance with the procedures set forth in Arizona Revised Statutes, City ordinance or as provided in the Local Rules of Practice and Procedure – Town Court – Town of Gilbert.

109.4.2 Admission or denial of allegation; hearing; findings of court; civil sanction.

109.4.2.1 A person served with a civil citation or complaint shall appear at the time and place stated in the citation or summons, or may appear prior to the

time, and admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted.

109.4.2.2 If the allegations are admitted, the court shall enter judgment for the Town and impose a civil sanction.

109.4.2.3 If the person denies the allegations, the court shall set the matter for hearing. Civil hearings are informal and held without a jury, and the Town of Queen Creek is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for the statutory provisions relating to privileged communications. If the person elects to be represented by counsel, the person shall also notify the court at least 10 days prior to the hearing date. Hearings may be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the citation or complaint. If the court finds in favor of the Town, the court shall enter judgment for the city and impose a civil sanction.

109.4.2.4 If the person served with a civil citation or complaint fails to appear on or before the time directed to appear or at the time set for hearing by the court, the allegations shall be deemed admitted and the court shall enter judgment for the Town and impose a civil sanction.

109.4.3 Criminal penalties. Whenever in any section of this Code the doing of any act is required, prohibited or declared to be unlawful, any person, firm or corporation who shall be convicted of a violation of any such section shall be guilty of a Class I misdemeanor.

ADD NEW SECTION TO READ AS FOLLOWS

ADD OR REVISE CHAPTER 2, DEFINITIONS TO READ AS FOLLOWS:

ADDRESS DIRECTORIES. See Section 502.

ASPHALT (ROOFING) KETTLE. A vessel or container used to process, heat, hold for heating, or dispense flammable or combustible roofing materials that are in liquid form or will take that form as a result of being exposed to such vessel or container.

AUXILIARY ACCESS OPENINGS. See Section 502

COMBUSTIBLE WASTE MATERIAL. Rubbish and refuse including, but not limited to magazines, books; trimmings from lawns, trees or flower gardens, plastic, pasteboard boxes, rags, paper, straw, sawdust, packing material, shavings, and boxes that will ignite through contact with flames of ordinary temperatures and recyclables.

CONFINED SPACE is a space that is large enough and so configured that an employee can bodily enter and perform assigned work; and has limited or restricted means for

entry or exit (for example tanks, vessels, silos, storage bins, hoppers, vaults and pits and spaces that may have limited means of entry; and is not designed for continuous employee occupancy.

EMERGENCY. An event or set of circumstances demanding immediate attention and remediation.

EMERGENCY POWER SYSTEM. An electrical system where the current supply is designed such that in the event of interruption of the normal power supply, a second source of adequate capacity and rating is available within 10 seconds of power failure.

EXCAVATION is any man-made cut, cavity, trench or depression in an earth surface, formed by earth removal.

FIRE APPARATUS ACCESS GATES. See Section 502.

FIRE OFFICER. A fire officer is a sworn member of the Queen Creek Fire Department having the rank of Captain or higher.

FIRE CODE OFFICIAL. Fire Code Official charged with the administration and enforcement of the 2006 IFC or "This Code" is the Fire Chief or duly authorized representative.

IMMINENT HAZARD. Is defined as a high, real and immediate risk to life, health or property.

OUTDOOR ASSEMBLY EVENTS. Private and public events conducted outdoors, including but not limited to beer gardens and mazes, having a projected attendance of 500 or more persons, at any one time, or confines 50 or more attendees by the permanent or temporary installation of barricades or fencing.

PEDESTRIAN GATES. See Section 502.

PREEMPTION DEVICE. See Section 502.

R-4 See the International Building Code (IBC)

SPREAD NUMBERS. See Section 505.

SPREAD PLATE.. A permanent sign that identifies individual dwelling units at a common entrance of a building.

STANDBY POWER SYSTEM. An electrical system where the current supply is designed such that in the event of interruption of the normal power supply, a second source of adequate capacity and rating is available within 60 seconds of power failure.
TEMPORARY. Temporary shall be for a period of less than 180 days.

TRENCH is a narrow excavation made below the surface of the ground. In general, the depth is greater than the width, but the width of a trench (measured at the bottom) is not greater than 15 feet. If forms or other structures are installed or constructed in an excavation so as to reduce the dimension measured from the forms or structure to the side of the excavation to 15 feet or less (measured at the bottom), the excavation is also considered to be a trench.

REVISE CHAPTER 3 TO READ AS FOLLOWS

307.1.1 Prohibited open burning. Open burning of rubbish that contains paper products is prohibited. Open burning that is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

307.6 Warming fires.

307.6.1 General. Warming fires shall be conducted in accordance with Section 307.6 when no other form of heat is available for warming and the following is complied with:

1. All warming fires shall be under control at all times and have a responsible person in constant attendance.
2. A noncombustible container shall be used for burning wood scraps. Maximum size of the container shall be 55 gallons water capacity.
3. A spark arrester shall be installed on the top of each container. The spark arrester shall be constructed of iron, heavy wire mesh or other noncombustible material with openings not larger than ½ inch.
4. A minimum of a10 foot radius shall be provided between the warming fire container and combustible materials.

ADD NEW SECTION TO READ AS FOLLOWS

SECTION 319
EXCAVATIONS AND CONFINED SPACES

319.1 Scope. This section shall apply to any man-made cut, cavity, trench or depression in an earth surface formed by earth removal and procedures to protect employees from the hazards of entry into confined spaces.

319.2 Excavations and Trenches. Excavations and trenches shall be in accordance with Title 29 Code of Federal Regulations, Part 1926.

319.3 Confined Spaces. Confined spaces shall be in accordance with Title 29 Code of Federal Regulations, Part 1910.

319.4 Unsafe Conditions. When in the opinion of the fire code official, an unsafe

condition exists, excavation and confined space operations shall cease and all persons removed until such time as adequate means have been taken to provide for the safety of persons working in or around the excavation or confined space.

ADD NEW SECTION TO READ AS FOLLOWS

SECTION 409
DIGITAL / ELECTRONIC DRAWING FILE SUBMISSIONS

409.1 General. Projects requiring a construction permit from the Building Safety Division, including projects performed under annual facilities permits, shall submit a digital/electronic copy of the permit drawings in accordance with the required format. A digital/electronic copy of the drawing shall not be required for the following:

(1) R3 occupancies.
(2) R4 occupancies.
(3) Single family residences.
(4) Other buildings or structures accessory to and located on the same lot with one and two family dwellings.
(5) Projects not required to submit drawings to obtain a permit.

The digital/electronic copy of the permit drawings shall be submitted to the Fire Department through the Building Safety Division for approval by the Fire Department's Technical Services Section prior to the issuance of the certificate of occupancy/completion by the Building Official.

409.2 Required Format. The digital/electronic files, required under this section, shall be submitted on cd/dvd-rom in one of the following formats: (dwg), (dxf), or (dgn). If submitted files are embedded with external references ("xref's"), such (xref) drawings shall be included on the submitted cd/dvd-rom. Cryptic naming for layers/files shall include a "definition key." All digital/electronic files shall be drawn in "feet" at a 1:1 scale.

409.2.1 Required Information. At a minimum, each file shall contain the following information:

Floor Plans:
One plan for each building floor.
All exterior and interior walls.
All door locations (ingress/egress) throughout the building, including roll up doors and roof hatch/doors.
Stairs and elevator locations.
Room/suite's names and/or numbers.
Utility shutoff locations (water, electric and gas).
Special hazards and high-piled stock/racks, if any.
Fire Department items shall include, but are not limited to, standpipes, fire sprinkler risers, alarm panels, fire department connections, and key boxes.

Site Plan:

Including parking lot, building numbers, parking garages, fire lanes and hydrants.
Roof Plan:
Layout and access (ladder/hatch locations).

409.3 Not Required. The drawings are not required to contain layers listing furnishings, floor coverings, ceiling styles/grids, plumbing fixtures, electrical (lights, switches, outlets), wall coverings, or landscape information.

ADD OR REVISE 503 AS FOLLOWS

503.2.4 Turning radius. Fire apparatus access roads shall have a minimum 45-foot center line radius (35 foot inside radius, 55 foot outside radius) on curves.

503.2.6 Bridges and elevated surfaces. Where a bridge or an elevated surface is part of a fire apparatus access road, the bridge shall be constructed and maintained in accordance with AASHTO HB-17. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of fire apparatus 66,000 pounds with a maximum axle load of 28,000 pounds. Vehicle load limits shall be posted at both entrances to bridges when required by the code official. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, approved signs or both shall be installed and maintained when required by the code official.

503.2.7 Grade. The grade of the fire apparatus access road shall not exceed 15 percent (15 feet in 100 feet). Cross-slope of an access road shall not exceed 6%.

503.3.1 Curbs. Fire apparatus access roads shall be identified by curbs painted red on both the top and face along the entire length of the fire apparatus access road. Where no curb exists or a rolled curb is installed, a 6 inch wide red stripe applied the full length of the fire apparatus access road shall be installed. Refer to Appendix D.

503.3.2 Marking not required. Signs and red painted curbs are not required on either side of the fire apparatus access road when a fire apparatus access road is greater than 32 feet in width.

503.3.3 Signs required on both sides of a road. When a fire apparatus access road is less than 26 feet in width fire lane signs and red painted curbs are required on both sides of the access road.

Fire apparatus access roads serving only R-5 or R-3 single family detached dwelling occupancies are required to have signs and red painted curbs installed on both sides of the road when 20 feet or less in width.

503.3.4 Signs required on one side of road. When a fire apparatus access

road is 26 feet or greater and less than or equal to 32 feet in width, fire lane signs and red painted curbs are required to be installed on a minimum of one side of the access road. Fire apparatus access roads serving only R-5 Occupancies require signs and red painted curbs on a minimum of one side of the fire apparatus access road when it is greater than 20 feet and less than 26 feet in width.

503.3.5 Stenciling. The fire department is authorized to require stenciling or other permanent markings to improve the identification of fire apparatus access roads. When required, the stenciling shall state “FIRE LANE NO PARKING”. Lettering shall be white on a red painted curb and shall be a minimum of 3 inches high with ½ inch brush stroke.

503.4.2 Stopping or parking in fire apparatus access roads. Motor vehicles, with or without power, including trailers, shall not be stopped or parked in any fire apparatus access road.

Any vehicle stopped or parked within an approved fire apparatus access road may be issued a “Notice of Parking Violation” by any member of the Queen Creek Fire Department, Maricopa County Sheriff, Pinal County Sheriff or any representative that the fire chief or Sheriff designates.

Any vehicle stopped or parked within the fire apparatus access road may be removed at the expense of the vehicle owner. Removal of a vehicle under such circumstances may be authorized by the person in lawful possession of the property or by the chief. The person in lawful possession of the property shall keep designated fire apparatus access roads free of vehicles and other obstructions.

503.4.3 Maintenance of fire apparatus access roads. Fire apparatus access roads shall be maintained by the owner at all times. Faded, damaged or vandalized signs shall be replaced with approved signs and posts.

503.4.4 Marking. The curb shall be painted red or approved red reflectors shall be installed to define the width of alternative surface fire apparatus access roads. The reflectors shall be imbedded into bordering curbing at intervals not exceeding 15 feet.

503.7 Fire Apparatus Access Roads During Construction.
Fire department access during construction, shall comply with this section.

503.7.1 Required access. Fire apparatus access is required within 200 feet of all points on the exterior of the building. Fire apparatus access roads shall be provided prior to introducing combustible materials on the construction site.

503.7.2 Width. Fire apparatus access roads shall be a minimum of 20 feet in

width. Fire apparatus roads on construction sites shall not be obstructed.

503.7.3 Surface. At a minimum, the surface of fire apparatus roads shall be as follows:

1. Minimum 6 inches of native soil compacted to 95% of standard proctor density (ASTM D698), and
2. Minimum 4 inches of aggregate base compacted to 100% of standard proctor density (ASTM D698).

The surface of fire apparatus access roads may differ from the above requirements if it is shown that the surface provided is sufficient to support an imposed live load of 66,000 pounds with a maximum axle load of 28,000 pounds. An engineer registered in the State of Arizona shall prepare and seal the soil compaction report. The report shall be available for review by the fire code official.

503.7.4 Stabilization. Curbs are not required for fire apparatus access roads for sites under construction.

503.7.5 Turning radius. Fire apparatus access roads shall have a minimum 45-foot center line radius (35 foot inside radius, 55 foot outside radius) on curves.

503.7.6 Dead-ends. Dead-end fire apparatus access roads in excess of 200 feet in length shall terminate in an approved turnaround.

505.2 Premises identification for residential occupancies. Shall be in accordance with Section 505.

505.2.1 Single-family homes. The address numbers for single-family homes shall be a minimum of 4 inches high, with a minimum 3/8 inch brush stroke on a contrasting background.

505.2.2 Address Marking of Multi-Family Residential Occupancies. The address, individual building, spread, and dwelling numbers at Group R occupancies shall be in accordance with this section.

505.2.2.1 Building or Site Address. The street address numbers for Group R, other than single family occupancies shall be a minimum of 12 inches high with a minimum of 2 inch wide brush stroke on contrasting color. For buildings less than 100 feet long, a minimum of one address shall be provided. For buildings over 100 feet in length, the address is required in a minimum of two places. Each building in a complex shall display its own identification.

505.2.2.2 Building identification numbers. Each building shall display its specific alphabetical or numerical designation which must be clearly

visible from the fire apparatus access road. The building identification numbers shall be a minimum of 18 inches high with a minimum 3-inch brush stroke on contrasting color. For buildings less than 100 feet long, a minimum of one building identification number per building shall be provided. The building identification number is required to be internally or externally illuminated.

505.2.2.3 Spread numbers. Spread numbers shall be provided adjacent to the building identification numbers to indicate the apartment or unit numbers by floors in the building. Spread numbers shall be a minimum of 7 inches high with a 1-inch brush stroke on a contrasting background. The spread numbers are required to be internally or externally illuminated.

505.2.2.4 Unit identification at entrances. When more than one dwelling or unit is accessed from an entrance, a spread plate is required.

505.2.2.5 Apartment or unit numbers. Individual apartment or unit numbers shall be a minimum 4inch high with a minimum 3/8 inch brush stroke on a contrasting background.

505.2.2.6 Additional unit identification signs.
Where a building is not visible from the fire apparatus access road, a directional sign indicating the location of the unit is required.

505.3 Premises identification for commercial buildings. Commercial building address numbers shall be a minimum of 12 inches high with a minimum 2-inch brush stroke on contrasting background. The address shall be visible from all access directions. When buildings are more than 200 feet long or set back from the road more than 100 feet they shall be identified with building address numbers that are a minimum of 24 inches high with a 4-inch brush stroke of a contrasting color. When buildings are greater than 500 feet in length, the number and address shall be provided in a minimum of two locations. When buildings have multiple access points, numbers and addresses shall be provided at each access point.

505.3.1 Multi-tenant commercial buildings. Individual tenant spaces in multi-tenant commercial buildings shall have their address or suite number posted at the front entrance and rear access doors. This number shall be a minimum of 6” high with a 1-inch brush stroke on a contrasting background.

505.3.2 Multiple buildings at a single address. Each building shall display its specific alphabetical or numerical designation that shall be clearly distinguishable from the fire apparatus access road. See Section 505.2.1 for minimum letter height and brush stroke requirements.

505.4 Address directories.

505.4.1 When required. An approved address directory shall be provided at properties containing one of the following:

1. More than one principal building,
2. Buildings with unit identification numbers that are randomly numbered or sequenced.
3. When, in the opinion of the fire code official, emergency response may be delayed due to the physical layout of the complex.

505.4.2 Specifications. Address directories shall be constructed and installed in accordance with this section.

505.4.3 Dimensions. The number of buildings in the complex shall determine the minimum dimensions of the directory. Minimum directory dimensions shall be as follows:

1. Complexes containing 12 or fewer buildings require a minimum 3 feet by 3 feet (9 square feet) site directory.
2. Complexes containing 13 to 30 buildings require a minimum 4 feet by 4 feet (16 square feet) site directory.
3. Complexes containing 31 or more buildings require a minimum 5 feet by 5 feet (25 square feet) site directory. Stanchions or supports shall not be included in the required size of the directory.

505.4.4 Protection. The directory shall be protected against vandalism and disfigurement by a clear polycarbonate cover, having a minimum thickness of 1/8 inch, sealed to protect the directory from weather.

505.4.5 Illumination. Address directories shall be internally illuminated utilizing white light.

505.4.6 Installation requirements. Support posts or stanchions shall be set in concrete. Directories with dimensions of 3 feet by 3 feet (9 square feet) shall be mounted with the bottom of the directory not less than 36 inches above grade. Directories with dimensions of 4 feet by 4 feet (16 square feet) and 5 feet by 5 feet (25 square feet) shall be mounted with the bottom of the directory not less than 24 inches above grade.

505.4.7 Depictions. All depictions must be clear, easily understood, and legible at a distance of 8 feet. The directory shall depict structures, building numbers, units, apartment or space numbers, tennis courts, swimming pools, elevators, driveways, streets, laundry rooms, fire hydrants, fire apparatus access roads and other features as determined by the fire department. The depictions shall comply with the following:

1. Directories shall be a dark print on a contrasting light background. Buildings shown on the directory shall not be the same color as other features indicated on the directory.
2. The name and address of the complex are required and shall not exceed

10% of the total size of the site directory.
3. Swimming pools, canals, and waterway areas shall be translucent blue.
4. Tennis courts shall be translucent green.
5. Fire hydrants shall be a ¼ inch diameter black circle filled in with a translucent yellow center. The abbreviation 'HYD" must be affixed by the location of the hydrant on the directory.
6. The directory shall be properly oriented to the viewer with a red dot, 1-inch in diameter, with the words "YOU ARE HERE" affixed at the appropriate location on the directory.
7. A north arrow shall be included in the upper right quadrant of the directory. The arrow shall be a minimum of 3 inches in length and a minimum of 1-inch brush stroke.
8. Interior fire apparatus access roads, where provided, shall be marked on the directory with red crosshatching.

505.4.8 Setbacks. The directory shall be installed on the occupancy's property, at locations approved by the fire code official. Placement of the address directory shall be as follows:

1. The directory shall be set back from the street or curbing at least 25 feet to allow emergency vehicles to clear the public right-of-way.
2. Shall not exceed a distance of 4 feet from the edge of the fire apparatus access road facing the direction of oncoming traffic.
3. Shall not conflict with traffic visibility zones as provided for by other ordinances.
4. Shall be immediately visible and free from obstructions including architectural design and landscaping.

505.4.9 Prohibitions. Information such as advertising or additional art work shall not be allowed on the address directory.

505.4.10 Maintenance. All premises identification shall be maintained clearly visible and free from obstructions, including landscaping.

505.5 Private street or road signs. Private streets and roads shall be identified with approved signs. Signs shall be of an approved size, weather resistant and be maintained until replaced by permanent signs.

506.1.2 Height. The key box shall be mounted between 5 ½ and 6 feet above grade measured within 3' of the box.
506.1.3 Visibility. The key box shall be illuminated so as to be immediately visible to fire personnel from the emergency apparatus. Posts, fences, vehicles, growth, trash, storage, and other materials shall not be placed or kept near key boxes in a manner that would prevent the key boxes from being immediately discernible.

507.3 Fire Flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined by Appendix B.

ADD NEW SECTION TO READ AS FOLLOWS

SECTION 511
CONTROLLED ACCESS GATES

511.1 General. The installation of controlled access gates across a fire apparatus access road shall be approved by the fire code official and meet the requirements of Section 511.

511.1.1 Permits. Permits shall be required to install or modify controlled access gates.

511.1.2 Gate installation companies. When gates are installed at any location that obstructs a fire apparatus access road, the installing company shall be licensed by the Arizona Registrar of Contractors

511.1.3 Egress. Fire apparatus access gates shall be designed and installed such that they do not obstruct the ingress and egress of emergency vehicles.

511.1.4 Maintenance. All fire apparatus access gates shall be maintained operable at all times and shall be inspected at least annually. Copies of the annual inspection report shall be maintained and be accessible for fire department review.

511.1.5 Inoperable gates. Controlled access gates that are inoperable and impede the entrance of fire apparatus shall be chained open or removed at the owner's expense.

511.1.6 Illegal gates. Controlled access gates that cross fire apparatus access roads that have been installed without a permit shall be chained open or removed at the owner's or installing contractor's expense until a permit and final approval has been obtained from the fire department.

511.2 Fire Apparatus Access Gates.

511.2.1 General. Access gates are required to be automatic where no turn-around is provided for fire apparatus.

511.2.2 Main entrance identification. Access openings shall have signs that identify the location of the property's primary entrance, and signs shall be bolted on the street side of the fire apparatus access gate.

511.2.3 Marking and signage. Manual and automatic access openings are

required to be marked in accordance with Section 511.3.5. Signage shall be provided in accordance with Section 511.5.2.

511.3 Controlled access Gate Specifications. When controlled access gates are installed across a fire apparatus access road the specifications in 511.2 shall apply.

511.3.1 Opening width. When the gate is fully opened, a minimum 20-foot clear width shall be provided for both the entrance and exit gates. Gates installed and approved prior to the effective date of this code shall be maintained in accordance with the original approval.
The Fire Code Official shall require additional width opening when existing conditions cannot met the 45-foot fire apparatus turning radius.

511.3.2 Electrically operated gates. Electrically operated gates shall be installed in accordance with this section.

511.3.2.1 Standby power systems. Electrically operated gates shall be provided with a standby power system. Standby power is permitted to be, but not limited to, battery back-up or connection to an emergency generator. The activation of the system shall open gates and maintain them in the open position until primary power is restored to the system. Standby power systems are required to comply with the National Electrical Code Article 701.

Exception: Controlled access gates installed at occupancies other than multi-family residential properties may remain closed until the emergency gate switch is activated, and shall then remain open while the standby power system is operating the gate.

511.3.3 Opening time. Electrically operated controlled access gates shall open at a minimum rate of one foot per second.

511.3.4 Key switch. Each electrically operated controlled access gate shall be equipped with an approved key switch on both sides of the gate. When separate entry and exit gates are provided, the emergency key switch shall open the entrance and exit gates.

511.3.5 Key switch identification. An approved sign reading “F.D. ACCESS” shall be installed within 12 inches of the emergency key switch. The key switch shall be illuminated so as to be visible from fire apparatus.

511.3.6 Height. The key switch shall be mounted between 5 ½ feet and 6 feet above grade.

511.3.7 Obstruction and impairment. Posts, fences, vehicles, growth, trash, storage and other materials shall not be kept near key switches in a manner that

would prevent the key switches from being visible. A three foot clear space shall be maintained around the circumference of the key switch.

511.3.8 Bypass of systems. When activated, the emergency key switch shall bypass all occupant and loop switch systems.

511.4 Preemption devices. Preemption devices are required on all new automatic fire access gates installed after the adoption of this code, at residential properties. Gates installed without permits or proof of installation date, require preemption devices. Voluntary installations of preemption devices shall comply with the requirements of Section 511.4.2.

511.4.1 Locations. The devices shall be installed such that the gate will open for both ingress and egress of emergency vehicles.

511.4.2 Minimum installation standards. The installation of preemption devices shall comply with the following:

1. Detectors shall be mounted 8 feet to 10 feet above grade.
2. Detectors shall be located a minimum of 18 inches behind the gate on the property side.
3. Detectors shall be mounted on a separate 4 inch by 4 inch metal post and not on the guidepost. The metal post shall be cemented a minimum of 18 inches below grade.
4. Detectors shall activate at a minimum of 150 feet from the gate.
5. Detectors shall point toward both the approach and the exit path of the emergency vehicle.
6. The sight path of the detector shall be free of visual obstructions such as signs, covered parking, canopies and vegetation.
7. Individual detectors shall be mounted together with the power module in the dual detector-mounting box. Detectors shall be approved by the fire department.

ADD OR REVISE SECTIONS WITHIN 903 AS FOLLOWS.

Sections 903.2 through 903.2.11.3 are deleted in their entirely and amended as follows:

903.2 Where required. All new building and structures shall be provided with an automatic sprinkler throughout.

Exceptions:

1. Detached single family dwellings, Group R-3 and their associated detached accessory structures not including Group R-4.

2. Detached telecommunication buildings not exceeding 600 square feet in floor area and not intended for occupancy other than maintenance purposes.

3. Detached accessory use structures such as gazebos, ramadas, guardhouses, restroom buildings at golf courses, parks and similar uses.

4. Detached canopies of type I or II construction not exceeding 3000 square feet in roof area located a minimum of 10 feet from buildings, structures and property lines.

5. Fire rated fabric shade canopies of type I or II framing construction not in excess of 3000 square feet in roof area located a minimum of 10 feet from buildings, structures and property lines.

6. Portable storage containers of type I or II construction not in excess of 360 square feet located a minimum of 10 feet from buildings structures, property lines and other containers, with no hazardous materials storage.

7. Factory built buildings less than 1,500 square feet used as temporary offices for real estate leasing or construction management and not to exceed 12 months from installation date.

8. Detached U occupancies of less than 3,000 square feet and located a minimum of 10 feet from buildings, structures and property lines.

9. Covered walkways of type I or II construction with no combustible storage underneath and approved by the fire code official.

903.2.1 Additions to Existing Buildings and Structure. Added as follows:
All additions to existing buildings or structures and all buildings or structures that are expanded by an addition(s) shall be provided with an approved automatic fire sprinkler system throughout all levels complying with section 903.2

Exception:
The maximum aggregate fire area of an addition (s) is less than 1,000 square feet or 10% of the floor area of the existing building or structure, whichever is less.

903.2.2 Change of Occupancy within hazard level 1. Added as follows:
An automatic fire sprinkler system shall be installed when a building, regardless of the building area, under goes a change of occupancy within hazard level 1 as defined by table 903.2.5

903.2.3 Change of Occupancy over 5,000 square feet. Added as follows:
An automatic fire sprinkler system shall be installed in any building 5,000 square feet or greater that under goes any change of occupancy.

903.2.4 Change of Occupancy less than 5,000 square feet. Added as follows: An automatic fire sprinkler system shall be installed in any building less than 5,000 square feet that under goes a change of occupancy to a higher Level as defined by Table 903.2.5

Table 903.2.5
Existing Building Hazard Levels

Hazard Level	Building Occupancy Type*
1 (highest)	A, H, I, R-1, R-2, R-4
2	F-1, S-1
3	E, F-2, S-2
4 (lowest)	B, M, R-3, U

*Occupancies as defined in the Town of Queen Creek Building Code

903.3.1.2.2 Attics. Where installed in buildings, Fire Sprinkler systems shall be provided within attic areas.

903.3.1.2.3 Exterior storage closets. Where installed in buildings, sprinkler protection shall be extended into attached exterior storage closets.

903.3.1.2.4 Attached garages, carports and balconies. Where installed in buildings, sprinkler protection shall be extended into attached garages, carports, open patios or balconies with living space directly above or adjacent to.

903.3.1.2.5 Residential combination services.
With Water Department approval a single combination water supply shall be permitted provided that the domestic demand is added to the sprinkler demand as required by NFPA 13R.

903.5.1. Fire Sprinkler Riser Room. For the purpose of inspection, testing, or maintenance of NFPA 13 & 13R fire protection systems in new buildings, there shall be provided, at the time of construction, a dedicated interior riser room with direct exterior access door on the side of the building next to the fire sprinkler riser of adequate size to allow for valves and gauges to be accessed, repaired and viewed for testing and maintenance purposes. The dimensions of the access door will be dependent upon the design of the riser and system devices but shall, in no case, require that service personnel must enter a private dwelling or garage to reach the riser for service and/or repair.

903.3.7.1 Remote Fire Department Connections. Remote fire department connections shall be located within four (4) feet (1219.2mm) to eight (8) feet (2438.4mm) of the curb line of an access road or public street, or as otherwise

specified. The fire department connection line shall be a wet line with the check valve at the hose connection above grade.

903.3.7.2. Fire department connection sizing. The size of the fire department connection and piping is dependent on the automatic sprinkler design flow. The maximum design flow for a 2-½ inch Siamese connection is 500 gpm. For design flows greater that 500 gpm install a single 2-½ inch siamese connection and 5 inch Storz connection ted by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. An interior alarm to alert the occupants shall be provided in the interior of the building in a normally occupied location when off-site monitoring is required. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

903.4.2 Alarms. Approved audible devices shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be active

905.3.4 Stages. Stages greater than 1,000 square feet in area (93 m2) shall be equipped with a Class I wet standpipe system with 2.5 inch (64 mm) hose connections on each side of the stage supplied from the automatic fire sprinkler system and shall have a flow rate of not less than that required for class 1 standpipes.

905.3.4.1 Hose and cabinet. Delete section.

905.12. Hose connections for access challenges. Buildings exceeding 10,000 square feet (929 m2) in area per story, and not otherwise required to be equipped with a standpipe system by section 905.3 of the 2012 IFC, shall be equipped with class I manual hose connections (2-1/2” NST) for fire department use as follows:

1. The locations shall be in accordance with, NFPA13, and 2012 IFC sec. 905.4, except item 1. 905.4, item 1 locations shall be at each floor-level landing, including grade level, within enclosed stairways, rather than located at intermediate floor level landings.
2. The hose connections are required when exterior ground floor walls exceed the required distance from fire apparatus access roads.
3. Single story structures are not required to have hose connections except in those interior portions of the building that exceed 200 feet (60.96 m) of travel from an emergency access road.
4. Where the most remote portion of a floor or story is more than 200 feet of travel from a hose connection, additional hose connections are required.
5. The hose connections may be combined with the fire sprinkler system and sized to deliver 250 gallons per minute at 100 psi from the most hydraulically remote outlet, using 150 psi fire department pump-in pressure. Calculations for hose demand shall be submitted with sprinkler plans.

907.2.12.1 Automatic fire detection. Smoke detectors shall be provided in accordance with this section. Smoke detectors shall be connected to an automatic fire alarm system. The activation of any detector required by this section shall operate the emergency voice/alarm communication system.

907.10 Visible alarms. Visible alarm notification appliances shall be provided in accordance with Sections 907.10.1.1 through 907.10.1.45.

ADD SECTION 907.10.1.5 TO READ AS FOLLOWS

912.1.1 Underground pipe. All fire department connection underground piping shall be installed as a minimum DIP Class 350.

REPLACE SECTION 912.2.1 TO READ AS FOLLOWS

912.2.1 Visible location. Fire department connections shall be located on the street side of buildings, fully visible and recognizable from the street or nearest point of fire department vehicle access or as otherwise approved by the fire code official. The location of fire department connections shall be approved and installed as follows:

1. Within 50 feet of an approved fire access rd., and arranged so that hose lines can be readily attached to the inlets without interference from any objects including buildings, fences, posts, plantings, or other fire department connections.
2. Within 300 feet of an approved hydrant.
3. So that the inlet height shall not be less than 18 inches nor more than 48 inches above grade.
4. Guard posts or other approved means may be required to protect fire department inlet connections from vehicular damage.

912.2.3 Wall mounted Fire Department Connections. Wall mounted fire department connections are permitted on light and ordinary Group 1 construction, when:

1. There are no glazed structural openings within 5 feet (1524mm) horizontally from inlet connection.
2. The structure is not classified as an “H” occupancy.
3. The fire department connection is within 50 feet of an approved roadway or driveway and arranged so that hose lines can be readily attached to the inlets without interference from any nearby objects including buildings, fences, post, plantings or other fire department connections. as approved by the fire code official.

912.4 Signs. Each fire department connection shall be identified by a permanent weather resistant sign. The sign face shall be a minimum 12” x 12” and fabricated from .080 aluminum sheet or equivalent. The sign face shall have a white 3M diamond grade

sheeting or equivalent applied as background. When the system supplied by the FDC does not supply the entire building or supplies multiple buildings, the sign shall identify the buildings or areas of the building supplied by the FDC. The fire department connection sign shall identify the building address or area, where necessary, and type of systems the FDC supplies.

ADD NEW SECTION TO READ AS FOLLOWS

SECTION 915
FIREFIGHTER BREATHING AIR REPLENISHMENT SYSTEM

915. Firefighter Breathing Air Replenishment Systems

915.1. General. A firefighter breathing air replenishment system (FBAR System) is a complete, self-contained high pressure breathing air replenishment system for emergency responders. This system consists of a fire department air connection panel, remote air fill panels and high pressure interconnected piping, permanently installed within a structure. This allows fire department personnel to replenish empty self-contained breathing apparatus (SCBA) cylinders within close proximity to the location of the incident requiring emergency response, thus reducing the amount of travel distance, time and support personnel needed at an emergency incident.

915.2. Applicability. The requirements of this subsection shall apply to all new buildings and structures meeting the specifications set forth in paragraph 915.3.

915.3. Buildings and structures requiring FBAR System. A FBAR System shall be installed in all new buildings, existing buildings that have a change of occupancy and structures meeting any of the following criteria:

> **915.3.1.** Buildings and structures five (5) floors or more above grade or high rise buildings as defined by the Queen Creek Code; or
>
> **915.3.2.** Underground buildings and structures, or components thereof, totaling ten thousand (10,000) square feet or more that are either more than two (2) floors below grade or more than thirty (30) feet below grade.

915.4. Drawings. Submit scaled drawings of the FBAR system to the Town of Queen Creek as required in Section 105 of the Queen Creek Code.

915.5. Contractor qualifications. The FBAR system shall be installed tested and maintained by a contractor with an Arizona Registrar of Contractors license and have knowledge of high pressure and medical gas piping.

915.6. FBAR System requirements. The FBAR System installation shall allow fire department personnel to simultaneously replenish four (4), 45 cubic foot self-contained breathing apparatus cylinders at any one (1) time, with two (2) connections at three

thousand (3,000) psi and two (2) connections at four thousand five hundred (4,500) psi. Fire department personnel shall be able to connect into the FBAR System's fire department air connection panel at grade level from a mobile air support apparatus thereby providing a constant source of breathing air supplied directly from the air support apparatus to the system's remote air fill panels.

915.7. FBAR System components. The FBAR System shall consist of the following minimum components:

915.7.1. Exterior fire department air connection panel;

915.7.2. Interior cylinder fill panels;

915.7.3. Interconnected piping; and

915.7.4. Low pressure monitoring switches and alarm.

915.8. Exterior Fire Department Air Connection Panel.

915.8.1. Location: An exterior fire department air connection panel shall be installed on the exterior of the building or within a remote monument at a location approved by the Fire Chief with a minimum of six (6) foot – 180 degree clear unobstructed access to the front of the panel and shall be interconnected to the building's interior remote air fill panels. Locate the fire department fill panel within 50 feet of the approved fire access.

915.8.2. Enclosure: The fill inlet and associated components of the air connection panel shall be contained in a lockable, weather tight enclosure. The enclosure shall be a weather resistant metal cabinet constructed of minimum 18-gauge carbon steel or equivalent. The enclosure shall be provided with a coating or other means to protect the enclosure from corrosion.

915.8.3. Enclosure components: The exterior fire department connection panel shall contain all of the necessary gauges, isolation valves, pressure relief valves, pressure regulating valves, check valves, tubing, fittings, supports, connectors, adapters and other necessary components as may be required to allow the fire department’s mobile air unit to quickly connect and augment the system with a constant source of breathing air. The panel shall be locked at all times, unless in use by fire department personnel. The locking mechanism for the panel cover shall be contained in an approved key box installed at a location approved by the Fire Chief. The key to unlocking the cover shall be stored in the approved key box. Each fire department connection panel shall contain at least two (2) connections.

915.8.4. Pressure relief valve: Install a pressure relief valve downstream of the pressure regulator inlet. The relief valve shall meet the requirements of CGA S-

1.3 Safety Relief Valves and shall not be 28 field adjustable. The relief valve shall have a set to open pressure not exceeding 1.1 times the design pressure of the system. Pressure relief valve discharge shall terminate so that the exhaust air stream cannot impinge upon personnel in the area. Valves, plugs or caps shall not be installed in the discharge of a pressure relief valve. Where discharge piping is used the end shall not be threaded.

915.8.5. Damage protection: The fire department air connection panel shall be installed in an area protected from physical damage.

915.9. Interior cylinder fill panels.

915.9.1. New buildings. Unless otherwise approved by the chief, the interior cylinder fill panels shall be installed in the above grade portion of applicable structures in all stairwells. Install the required interior cylinder fill panels commencing on the third floor and on every other floor above the third floor. The interior cylinder fill panels are not required on the highest floor or on the floor immediately below the highest floor. Unless otherwise approved by the chief, the interior cylinder fill panels shall be installed in the below grade portion of applicable structures at stairwells, or other areas of ingress or egress approved by the chief, commencing on the third floor below ground level and every other floor below grade level thereafter or, if there are fewer than three (3) floors below ground level, the lowest floor.

915.9.2. Existing buildings. Install the interior cylinder fill panels per Section 915.9 in existing buildings within one stairwell only. The Fire Chief shall approve that stairwell. The interior cylinder fill panels may be surfaced mounted within the stairwell and shall be at the stairwell floor landing.

915.9.3. Cabinet requirements. Each cylinder fill panel shall be installed in a metal cabinet constructed of minimum 18-gauge carbon steel or equivalent. The depth of the cabinet shall not create an exit obstruction when installed in building stairwells. With the exception of the shutoff valve, pressure gauges, fill hoses and ancillary components, no system components shall be visible and shall be contained behind a minimum 18-gauge interior panel.

915.9.3.1. Door. Hinges for the cabinet door shall be located inside of the cabinet. The door shall be arranged such that when the door is open, it does not reduce the required exit width or create an obstruction in the path of egress.

915.9.3.2. Cabinet components. The cabinet shall be of sufficient size to allow for the installation of the following components:

915.9.3.2.1. The cylinder fill panel shall contain all of the gauges, isolation valves, pressure relief valves, pressure regulating valves,

check valves, tubing, fittings, supports, connectors, hoses, adapters and other components to refill SCBA cylinders.

915.9.3.2.2. Cylinder filling hose. The design of the cabinet shall provide a means for storing the hose to prevent kinking. When the hose is coiled, the brackets shall be installed so that the hose bend radius is maintained at 4 inches or greater. Fill hose connectors for connection to SCBA cylinders shall comply with the requirements of NFPA 1981. No other SCBA cylinder fill connections shall be permitted.

915.9.3.2.3. Security. Each panel cover shall be maintained locked by an approved means.

915.9.3.3. Clearance and access. The panel shall be a minimum of 36 inches but not more than 60 inches above the finished floor or stairway landing. Clear unobstructed access shall be provided to each panel.

915.9.4. The interior cylinder fill panel capacity. The interior cylinder fill panels shall contain all of the necessary gauges, isolation valves, pressure relief valves, pressure regulating valves, check valves, tubing, fittings, supports, connectors, adapters and other necessary components as may be required to allow firefighters and other first responders to safely and reliably replenish a minimum of two (2) forty-five (45) cubic feet breathing air cylinders simultaneously.

915.10. Tubing, valves and fittings. Unless otherwise approved by the Fire Chief, all tubing, valves and fittings shall be compatible and support a minimum working pressure of five thousand (5,000) psi. Design the tubing, valves and fittings with a safety factor of four (4). Support the tubing not less than at five-foot intervals.

915.10.1. Tubing. Tubing shall be stainless steel complying with ASTM A269 or other approved materials that are compatible with breathing air at the system pressure. Routing of tubing and bends shall be such as to protect the tubing from mechanical damage.

915.10.2. Fittings. Fittings shall be constructed of stainless steel complying with ASTM A403/A403M or other approved materials that are compatible with breathing air at the system pressure.

915.10.3. Prohibited materials. The use of non-metallic materials, carbon steel, iron pipe, malleable iron, high strength gray iron, or alloy steel shall be prohibited for breathing air pipe and tubing materials.

915.10.4. Protection. The entire system shall be protected by a minimum of two-hour rated construction that protects the system from possible damage. When piping must pass through a fire rated or solid material, protect the piping with a

sleeve that is at least three (3) times the pipe diameter. Fill both ends of the sleeve and wall gap with an approved fire stop. Label the piping with “Rescue Breathing Air” at internals not less than 10 feet.

915.11. Low pressure monitoring and alarm. When not being utilized by fire department personnel, the FBAR System shall maintain a constant pressure of at least four thousand five hundred (4,500) psi. An alarm or monitoring system capable of detecting, and that is set to detect, a pressure drop of one thousand (1,000) psi shall be included and maintained with the FBAR System. The low-pressure alarm shall transmit a supervisory signal to the building alarm fire system and to the central alarm monitoring station when the system pressure falls below the minimum allowed pressure. A building or structure owner or designee, shall notify the fire department of any scheduled test of the system conducted by the owner of the building or structure. Unless otherwise approved by the Fire Chief, the low-pressure alarm shall be monitored by an approved fire and smoke alarm system for the building or structure.

Exception:
In lieu of the low pressure monitoring and alarm, the building owner shall test the air quality of the system every three months according to NFPA 1989.

915.12. Isolation valve. A system isolation valve shall be installed downstream of each air fill station and shall be located in the panel or within 3 feet of the station. The isolation valve shall be marked with its function in letters that are a minimum of 3/16-inches high with a 1/16-inch brush stroke.

915.13. Markings and record keeping. The fire department air connection panel and the remote air fill panels shall be clearly identified by means of permanently installed signage which says: “FIREFIGHTER AIR SYSTEM” in minimum letters 1½ inch high with a ¼ inch stoke and be located where plainly visible. The building or structure owner shall keep the area in and around the fire department air connection panel and the remote air fill panels free of objects that may block use of these panels and shall maintain and test the FBAR System in accordance with NFPA Standards and manufacturer specifications. Records of all maintenance and testing of the FBAR System shall be kept on-site for a minimum of three (3) years and be available to fire department personnel upon request.

915.14. Testing requirements. When fabrication, assembly and installation of the FBAR System is complete, the entire system shall be tested in accordance with the following:

915.14.1 The system shall be inspected for leaks by pneumatically pressure testing the system to five thousand (5,000) psi using oil-free, dry air. An approved solution shall be used on each joint and fitting in the system to detect leaks. All leaks or failure to maintain five thousand (5,000) psi pneumatic pressure shall be documented by the system installer and forwarded to the system manufacturer for inspection, repair and/or replacement.

915.14.2 Upon successful completion of the five thousand (5,000) psi pressure testing, the entire system shall be pneumatically pressure tested to one and one-half (1 1/2) times the working pressure (seven thousand five hundred (7,500) psi) using oil free, dry air for at least one (1) hour. All leaks or failure to maintain seven thousand five hundred (7,500) psi pneumatic pressure shall be documented by the system installer and forwarded to the system manufacturer for inspection, repair and/or replacement.

915.14.3 Final Proof Test. The Authority Having Jurisdiction shall witness filling of two (2) empty sixty six (66) cubic foot capacity SCBA cylinders in three (3) minutes or less using compressed air supplied by fire department equipment connected to the exterior fire department connection panel. The SCBA cylinders shall be filled at the air fill panel or station farthest from the exterior fire department connection panel. Following this, a minimum of two (2) air samples shall then be taken from separate air filling stations and submitted to an independent certified gas analyst laboratory to verify the system's cleanliness and that the air meets the requirements of NFPA 1989. The written report shall be provided to the Authority Having Jurisdiction certifying that the air analysis complies with the above requirements.

915.15 Air quality testing. Upon completion of the pressure testing, test the air quality of the systems according to NFPA 1989.

CHAPTER 37
PLACES OF ASSEMBLY

SECTION 3701
GENERAL

3701.1 Scope. Places of assembly, including, trade shows and exhibitions, outdoor assembly events, outdoors mazes, special amusement buildings and special scaffolding structures shall comply with Chapter 37.

3701.2 Permits. Permits shall be required as set forth in Sections 105.6 and 105.7.

3701.3 Construction documents. Construction documents shall be submitted to the fire code and building official prior to the construction or modification of special amusement buildings, special scaffolding-type structures and multi-level exhibits

3701.4 Site plans. Site plans shall be submitted to the fire code official for prior approval in accordance with the following:

1. **Outdoor assembly events:** At least 30 work days prior to the event, site plans shall be submitted to the fire code official that include, but not be limited to the location and width of exits, location of fencing or means used to confine attendees,

and locations of fire apparatus access roads.

2. **Trade shows and exhibitions:** A minimum of 30 days prior to set-up of trade shows or exhibitions, site plans shall be submitted to the fire code official documenting all details of the trade show or exhibition including, but not limited to the location and size of exhibits and booths, aisles and exits, location of fire extinguishers, hose valves, manual pull stations, and fire alarm strobes, location of covered or multi-level exhibits or booths.

3. **Outdoor mazes.** A minimum of 30 days prior to the event, site plans shall be submitted to the fire code official. The site plan shall document the location of mazes and any other buildings or structures on the site, location of means to confine attendees, location and width of exits, location of internal combustion engines, location of approved fire extinguishers, location of generators and location of fire hydrants.

4. **Vehicle displays:** At least 10 work days prior to the display of liquid- or gas-fueled vehicles, boats or other motor craft in Group A occupancies. See Section 314.4.

Exception:
Auto dealerships.

5. **Vehicle competition or demonstration.** At least 10 days prior to the competition or demonstration of gas-fueled vehicles, boats or other motor craft in Group A occupancies. See Section 314.4.

SECTION 3702
DEFINITIONS

3702.1 Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.
[B] Assembly Group A. See Section 202, General Definitions.

EXHIBITS. A space or portable structure used for the display of products or services.

MAZES. A labyrinth of paths throughout a confined area accessible by walking or mobile.

OUTDOOR ASSEMBLY EVENTS. Private and public events conducted outdoors, including but not limited to beer gardens and mazes, having a projected attendance of 500 or more persons throughout the event and confine attendees by the permanent or temporary installation of barricades or fencing.

SWEAT LODGE. A structure constructed for a religious ceremony that contains a fire.

TORCHES. The use of open flame torches for entertainment purposes before a proximate audience.

TRADE SHOWS OR EXHIBITIONS. Public or private displays, events or occurrences held in buildings or portions of buildings for gathering together of 50 or more persons for

purposes of competition, demonstration, a setting or presentation of something in open view, or showing the merits of a product or service to a prospective consumer.

SECTION 3703
TRADE SHOWS AND EXHIBITIONS

3703.1 General. Trade shows and exhibitions, conducted within any occupancy shall comply with Sections 3703 and 314.

3703.2 Fixtures and displays. Fixtures and displays of goods for sale to the public shall be arranged so as to maintain free, immediate and unobstructed access to exits as required by Chapter 10.

3703.3 Vehicles. Liquid- or gas-fueled vehicles, boats or other motor-craft displayed shall comply with Section 314.

3703.4 Means of egress. Shall comply with this code and the requirements of the International Building Code.

3703.4.1 Travel distance. The maximum travel distance from any point in an exhibit to an exit access shall not exceed 50 feet (15240mm).

3703.4.2 Aisles.

3703.4.2.1 Aisle width. Minimum aisle width in a trade show or exhibition shall comply with the following:

Square Footage of Trade Show or Exhibition	**Minimum Aisle Width**
Greater than 15,000 square feet	10 feet
5,000 square feet to 15,000 square feet	8 feet
Less than 5,000 square feet	6 feet

The square footage of the trade show or exhibition shall be determined by adding all of the areas being used in the occupancy for the venue, not the individual size of each room.

3703.4.3 Obstructions. Aisles shall be kept clear of all obstructions, including but not limited to, chairs, tables, product, displays, vehicles, and trailer tongues.

3703.4.4 Exit signs. Exit signs shall be visible from all locations in the occupancy.

3703.5 Exhibit construction and materials. The materials used for an exhibit shall comply with Section 3703.6.

3703.5.1 Materials.

1. Noncombustible or limited-combustible materials.
2. Wood exceeding ¼-inch (6mm) nominal thickness

3. Wood ¼-inch (6mm) nominal thickness or less that is pressure-treated fire-retardant wood meeting the requirements of NFPA 703, *Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials*. The product shall be marked or labeled by the manufacturer. See NFPA 703, Section 1.2.3 for labeling requirements. The product shall not be painted or similarly modified until the material has been inspected and the marking or labeling verified, or provide documentation acceptable to the fire code official.

3703.5.1.1 Flame retardant materials. Vertical materials shall comply with NFPA 701.

3703.5.1.2 Wall and ceiling coverings. Textile wall coverings, such as carpeting and similar products used as wall or ceiling finishes shall comply with NFPA 101, Sections 10.2.2 and 10.2.4.

3703.5.1.3 Plastics. Plastics shall be limited to those that comply with Section 803.2.1. Plastics used in trade shows and exhibitions with an occupant load of 300 or more shall be Class A or Class B. Plastics used in trade shows and exhibitions with an occupant load of less than 300, shall be Class A, Class B or Class C.

3703.6 Combustible materials storage.

3703.6.1 Quantity. Combustible materials shall be limited to a one-day supply.

3703.6.2 Location. Storage of combustible materials behind exhibits is prohibited. Combustible materials, including but not limited to wood crates, paper and cardboard boxes, shall be stored outside the building in an approved area or in a storeroom having a fire-resistance rating of at least one hour and protected by an approved automatic fire-extinguishing system.

3703.7 Fire Protection.

3703.7.1 Clearance. A minimum 3-foot (914mm) clearance shall be provided around all fire extinguishers, fire hose cabinets, fire alarm pull stations and all other fire protection equipment, and shall be visible and accessible from an aisle.

3703.7.2 Fire extinguishers. Fire extinguishers shall be in accordance with Section 906.

3703.7.3 Covered exhibits and booths.

3703.7.3.1 Automatic extinguishing systems. Approved automatic extinguishing systems shall be provided in covered exhibits and booths exceeding 300 square feet. See Section 105.7. Each level of multi-level exhibit

booths shall be protected throughout, including the uppermost level where the uppermost level is covered with a ceiling.
Exception: Displays including boats, motor homes and other recreational vehicles.

3703.7.3.2 Smoke detectors. Single-station smoke detectors shall be provided in all enclosed, covered exhibits exceeding 120 square feet (111,484 cm^2).

3703.8 Multi-level booths. Construction documents for all multi-level exhibits shall be approved and stamped by a licensed structural engineer or architect and shall be submitted with the permit application. This includes any exhibit where a live load is proposed above the exhibit area floor level, regardless of the accessibility of the area to the public. Upper levels of multi-level booths with an occupant load greater than 10 persons shall have at least 2 remote exits.

3703.8 Hazardous Materials. Hazardous materials shall comply with Section 4703.10 and Chapter 27.

3703.8.1 Specific prohibitions. The following hazardous materials and operations are prohibited in trade shows and exhibitions:

1. Division 1.1, 1.2, 1.3, and 1.5 explosives as classified by the U.S. Department of Transportation.
2. Detonable, Class I and Class II organic peroxides.
3. Class I-A flammable liquids.
4. Class 4 and Class 3 oxidizers.
5. Class 4 and Class 3 (unstable) reactive materials.
6. Class 3 water-reactive materials.
7. Pyrophoric materials.
8. Highly toxic materials
9. Toxic gases.
10. Fueling or defueling of flammable or combustible liquids or compressed gases.

3703.9 Decorations. Curtains, drapes and decorations including, but is not limited to drapes, signs, banners, acoustical materials, cotton, hay, fabric, paper, straw, moss, split bamboo, and wood chips shall be flame resistant as demonstrated by testing in accordance with NFPA 701, or provide documentation of flame retardancy. Materials that cannot be treated for flame retardancy shall not be used. This includes but is not limited to oilcloth, tarpaper, nylon, plastic cloth, and other plastic materials.

3703.10 Liquid- and Gas-fueled vehicles and equipment. Liquid- and gas-fueled vehicles used for display, competition or demonstration within a building shall be in accordance with Section 314.4.

3703.11 Demonstration Cooking and warming equipment and devices.

3703.11.1 General. Cooking and warming devices shall be in accordance with Section 4703.13. This section shall apply to the use of cooking and warming devices for demonstration purposes only.

3703.11.2 Public Isolation. The equipment and devices shall be isolated from the public by not less than 4 feet (1219mm) or by a noncombustible 3-sided barrier between the equipment and devices and the public.

3703.11.3 Protection. Single-well cooking equipment using combustible oils or solids shall meet the following:

1. A noncombustible lid shall be immediately available. The lid shall be of sufficient size to cover the cooking well completely.
2. The cooking surface shall not exceed 288 square inches (18,580mm).
3. The equipment shall be placed on a noncombustible surface.
4. The equipment shall be separated from each other by a horizontal distance of not less than 2 feet (609mm).

3703.11.4 Fire extinguishers. An approved 20-B: C rated dry chemical fire extinguisher shall be provided within 30 feet (9144mm) of deep fat fryers using animal fat oil. An approved Class K rated fire extinguisher shall be provided within 30 feet (9144mm) of deep fat fryers using vegetable oils.

3703.11.5 The cooking equipment shall be separated from combustible materials by a horizontal distance of at least 2 feet (609mm).

3703.12 Electrical. See Section 605.

3703.13 Open flame devices. See Section 308.

3703.14 Lasers. Lasers shall comply with State of Arizona regulations.

SECTION 3704
OUTDOOR ASSEMBLY EVENTS

3704.1 General. Outdoor assembly events shall be in accordance with Section 4704.

3704.2 Occupant load. The fire code official shall establish an occupant load for the event site when not in conjunction with building occupant loads determined under the IBC.

3704.3 Exits. Exits as remote from each other as practical shall be provided as follows:

Occupant Load	Minimum Number of Exits
500 to 4,999	2
5,000 to 8,999	3
9,000 or more	4

3704.3.1 Width. The aggregate clear width of exits shall be a minimum of 36 inches wide (914mm) for each 500 persons to be accommodated.

3704.3.2 Signs. Exits shall be identified with signs that read “EXIT”. The signs shall be weather-resistant with red lettering on a contrasting background. The lettering shall be of sufficient height and brush stroke to be immediately visible from 75 feet (22,860mm). Placement of the exit signs shall be approved by the fire code official.

3704.4 Access. Fire apparatus access roads shall be provided in accordance with Chapter 5.

3704.5 Fire extinguishers.

3704.5.1 General. Portable fire extinguishers shall be provided for the entire event site in accordance with Section 906.

3704.5.2 Travel distance. Maximum travel distance to reach a portable fire extinguisher shall not exceed 75 feet (22,860mm).

3704.6 Electrical equipment. Electrical equipment and installations shall comply with the National Electrical Code.

3704.7 Concession stands and food booths.

3704.7.1 General. Concession stands and food booths shall be in accordance with Section 4704.7.

3704.7.1.1 Distances. A minimum of 10 feet (3048mm) shall be provided behind booths when placed back-to-back. A minimum of 20 feet (6096mm) shall be provided between every 150 feet (45,720mm) of concession stand and food booth space. A minimum of 30 feet (9144mm) shall be provided between food booths and the parking of automobiles, generators, or any other internal combustion engine.

3704.7.1.2 Location. Concession stands used for cooking shall have a minimum of 10 feet (3048mm) of clearance on 2 sides and shall not be located within 10 feet (3048mm) of amusement rides or devices.
Exception: hotdog carts that are licensed by the City for use in right-of-ways.

3704.7.1.3 Fire extinguishers. An approved 20-B: C rated dry chemical fire extinguisher shall be provided within 30 feet (9144mm) of deep fat fryers using animal fat oil. An approved Class K rated fire extinguisher shall be provided within 30 feet (9144mm) of deep fat fryers using vegetable oils.

3704.7.2 Cooking appliances or devices.

3704.7.2.1 Public isolation. Concession stand and food booth cooking appliances or devices shall be isolated from the public by providing the following:

1. A minimum of 4 feet (1219mm) between the cooking appliances or devices from the front of the booth, or
2. A noncombustible 3-sided shield installed between the cooking appliance or device and the public.

A minimum of 3 feet (914mm) shall be provided between concession stands and food booths and solid fuel-burning appliances or devices.

3704.7.3 Liquefied petroleum gas (LP-gas). LP-gas shall be in accordance with Chapter 38 and NFPA 58.

3704.7.3.1 Maximum number and quantity. A maximum of two LP-gas containers with a total aggregate water capacity of 25 gallons (95L) is permitted at one concession stand or food booth.

3704.7.3.2 LP-gas cylinder hoses. Hoses shall be designed for a working pressure of 350 PSIG with a safety factor of 5 to 1 and shall be continuously marked with LP-GAS, PROPANE, 350 PSI WORKING PRESSURE, and the manufacturer's name or trademark. Hose assemblies, after the application of couplings, shall have a design capability of 700 PSIG. Hose assemblies shall be leak tested at the time of installation at not less the operating pressure of the system in which they are installed. The hose length shall be 36-inches (914mm) or less.

3704.7.3.3 Storage of containers. Containers shall be stored in accordance with Chapter 38.

3704.8 Internal combustion engines. Internal combustion power sources, generators and similar equipment shall be in accordance with Section 4704.8.

3704.8.1 Fueling. Fueling of internal combustion power sources shall be conducted only when not in use.

3704.8.2 Protection. Internal combustion power sources shall be isolated from the public by physical guard, fence or enclosure installed at least 3 feet (914mm) away from the internal combustion power source.

3704.9 Water stations. When outdoor temperatures are expected to exceed 100^{o}F (38^{o}C$^{)}$, the event sponsor shall provide and maintain a minimum of one staffed water station for each 25,000-projected attendance. The water station shall include adequate water supply and cups, and a means for rapid replenishing of exhausted water and ice supplies. Each water stations shall be located as far apart as practicable to allow ease of access for event attendees.

SECTION 3705
SPECIAL AMUSEMENT BUILDINGS

3705.1 General. Special amusement buildings shall be in accordance with this section, Section 411 of the *International Building Code*, and this section.

> **Exception:** Amusement buildings or portions thereof, that are without walls or a roof and constructed to prevent the accumulation of smoke.

3705.2 Use of combustible decorative materials. Use of combustible decorative materials shall be in accordance with Chapter 3.

3707.4 Combustible decorative materials. Combustible decorative materials shall be Class A in accordance with Chapter 8.

3705.3 Assistance. Adult monitors with flashlights shall be available to provide assistance in the event someone becomes lost or disoriented.

3705.4 Automatic sprinkler system. Special amusement buildings shall be equipped throughout with an automatic sprinkler system in accordance with Chapter 9.

3705.4.1 Temporary special amusement buildings. Where the special amusement building is temporary, the sprinkler water supply shall be of an approved temporary means. The sprinkler piping shall be connected to a temporary water supply having sufficient capacity (flow and pressure) to supply residential or standard quick spray response sprinkler heads at a minimum design density of 0.15 gpm per square foot of protected floor area. The design shall be based on flowing the six most hydraulically remote sprinkler heads. Should the temporary amusement building contain less than six heads, the design shall assume that all heads are flowing simultaneously. The temporary water supply may be connected to either a domestic water line, a fire line, or temporary on-site storage, as long as the minimum design densities are met. An indicating type control valve shall be installed in an accessible location between the sprinkler system and the connection to the water supply.

When the temporary sprinkler system is installed from a domestic water line, back flow prevention shall be provided in accordance with the requirements of the Plumbing Code.

SECTION 3706
OUTDOOR MAZES

3706.1 General. Outdoor mazes including, but not limited to corn stalk or hedge mazes, shall be in accordance with Section 3706.

3706.1.1 Smoking and open flame devices. Smoking and open flame devices shall not be permitted within 50 feet of the maze site.

3706.1.2 Safe refuge areas. Safe refuge areas shall be established outside of the maze or building and structure, and not closer than 50 feet (15240mm).

3706.1.3 Generators. When generators are installed, a permit from the Development Services Department shall be obtained. The generators shall be installed at least 10 feet (3048mm) from combustible materials.

3706.1.4 Paths. Paths throughout the maze shall be a minimum of 36 inches (914mm) clear and unobstructed width.

3706.1.5 Separation. A minimum of 20 feet (6096mm) shall be provided between mazes and buildings and structures. The 20-foot (6096mm) clearance shall be free from vegetation and obstructions.

3706.1.6 Means of egress. Each exit shall be a minimum of 6 feet (1828mm) wide.

3706.1.6.1 Travel distance. The maximum travel distance to reach an exit access shall not exceed 75 feet (22,860mm). The travel distance shall be determined by using the maze path.

3706.1.6.2 Number. The travel distance required to reach an exit access shall determine the number of exits required. Locking devices shall not be allowed on exits when the maze is occupied.

3706.1.6.3 Exit signs. Exit signs shall be provided next to or above each exit. The lettering shall be a minimum of 12 inches (305mm) high with 2-inch (51mm) brushstroke. The signs shall read EXIT with lettering in a color contrasting to the sign's background.

3706.1.6.4 Fire extinguishers. A minimum 2:A:10-B:C portable fire extinguisher shall be provided at each exit.

3706.2 Permit application. At time of permit application, the event coordinator shall submit to the fire code official, a letter from the property owner authorizing the use of the site, the address of the site, dates and hours of operation and names and 24-hour phone numbers of at least two principals.

3706.2.1 Event plans. The following plans shall be submitted to the fire code official for approval.

3706.2.1 .2 General fire safety plan. The plan shall include, but not be limited to procedures that shall be used to prevent over-drying of vegetation throughout the

site, documentation of decorative materials flame-retardancy, the maximum number of attendees.

3706.2.1.3 Security plan. The plan shall document who shall provide security (e.g., off-duty Police Officers, Sheriff's posse, employees). Each security personnel shall be provided with a 2-way radio and flashlight.

3706.2.1.4 Evacuation plans. The plan shall document the responsibilities of all on-site employees. The plan shall also document how attendees will be evacuated, and where they will be evacuated.

3706.2.1.5 Maze rules. Each attendee shall be provided with maze rules.

3706.3 Employee responsibilities. Each employee shall be familiar with the evacuation plan and with fire extinguisher locations.

3706.3.1 Guides. An employee shall be responsible for guiding a group of not more than 14 attendees through the maze. Each employee shall be provided with a minimum of one "D" size flashlight and two-way radio. The employees shall be responsible for detecting and reporting fire or smoke to a competent person posted at the maze main entrance.

3706.3.2 Main entrance employee. Each maze shall be manned by an employee at the entrance. The employee shall be capable of communicating with the employees and shall be provided with a cellular telephone. When the main entrance employee receives a report of smoke, fire or injury, the employee shall immediately call 9-1-1.

3706.4 Watering. Corn stalk and hedge mazes shall be provided with sufficient water and at a frequency that prevents the vegetation from becoming dry or brittle. Failure to comply with this provision is an imminent hazard and the fire code official shall issue a stop order.

3706.5 Buildings and structures. When buildings and structures are intended to be occupied by attendees, the building and structure shall comply with Section 4705.

Appendices.

The following appendices are adopted:

Appendix A
Appendix B
Appendix C
Appendix D
Appendix E
Appendix F
Appendix G

CHAPTER 7 BUILDINGS AND BUILDING REGULATIONS

ARTICLE 7-3 ADDITIONAL REQUIREMENTS UNDER MAG CODES

7-3-1 MAG Standard Specifications and Uniform Details for Public Works Construction
7-3-2 MAG Building Code Standards Notebook

Section 7-3-1 MAG Standard Specifications and Uniform Details for Public Works Construction

Those certain specifications entitled “MAG Standard Specifications and Uniform Details for Public Works Construction”, sponsored and distributed by the Maricopa Association of Governments (MAG), are hereby adopted by the town and made part of this chapter the same as though said specifications were specifically set forth in full herein; and at least three copies of said specifications shall be filed in the office of the town clerk and kept available for public use and inspection.

Section 7-3-2 MAG Building Code Standards Notebook

Those certain specifications entitled “MAG Building Code Standards Notebook”, sponsored and distributed by the Maricopa Association of Governments (MAG), and hereby adopted by the town and made part of this chapter the same as though said specifications were specifically set forth in full herein; and at least three copies of said specifications shall be filed in the office of the town clerk and kept available for public use and inspection.

ARTICLE 7-4 BUILDING OFFICIAL[1]

The building official and administrative authority, as such may be referenced in any section of this chapter for all matters pertaining to any building, plumbing, electrical or any other inspections, shall be vested in the office of the Community Development Department or such other person the council may appoint.

ARTICLE 7-5 UNDERGROUND UTILITY LINES[2]

7-5-1 Definitions
7-5-2 Underground Utility Lines
7-5-3 Exceptions
7-5-4 Town Participation as Developer
7-5-5 Waiver of Underground Installation Requirements

Section 7-5-1 Definitions

[1]Ordinance 126-98 as modified by Ordinance 154-99; 209-01; 426-08 and 479-10

In this article, unless the context otherwise requires:

A. "Developer" means the individual, firm, corporation, partnership, association, syndication, trust or other legal entity (other than the serving utility) that is responsible for the development of land thereby creating a demand for service or causes alteration of existing services.

B. "Distribution feeder" means that portion of the distribution system feeding from a distribution substation to a specific load area and having a capacity of over three KVA and less than 12.5 KVA.

C. "Existing utility poles and wires" means such poles and wires and other related facilities that are in place and in operation as of October 6, 1995 and including repairs, replacements, additions, enlargements or betterments, changes, improvements hereinafter made to maintain or increase service capabilities of existing utility poles, wires, service drops and other facilities, but it does not include extensions made to existing distribution lines.

D. "New utility poles and wires" means poles and structures, wires, cables, transformers and other related facilities used in or as a part of the distribution or transmission of electricity or in the transmission of telephone, telegraph, radio or television communications that are not in place as of October 6, 1995 and constituting new extensions made from existing poles and wires.

E. "Transmission line" means an electric line used for the bulk transmission of electricity between generating or receiving points and major substations or delivery points, having a rating greater than twelve thousand five hundred volts.

[1]Ordinance 476-10
[2]Ordinance 69-95F. "Underground policy" means the then current policy governing payment of the cost of undergrounding distribution feeders and service facilities as established by the serving utility.

Section 7-5-2 Underground Utility Lines

Except as exempted in Section 7-5-3, all existing and new utility and telephone lines, electric utility distribution feeders, cable television lines and all other communication and utility lines adjacent to or within new residential, commercial or industrial subdivisions or other areas to be developed within the town shall be installed underground at the time of development of the property as part of the required off-site and on-site improvements. The developer of the property shall be responsible for the costs of the underground construction in accordance with the underground policy of the serving utility.

Section 7-5-3 Exceptions

The following construction may occur without meeting the underground installation requirements:

A. Transmission lines and betterment to existing utilities together with related switch yards, substations and related equipment.

B. Repair or improvement of existing utility poles and wires by the serving utility, provided that activity is not initiated on request of or by a developer.

C. Installation of new utility poles and wires or relocation of existing utility poles and wires not initiated by a developer.

D. Pad-mounted transformers or pull boxes, service terminals, pedestal type telephone terminals, telephone splice closures or similar on-the-ground facilities attached to existing overhead facilities which are used for the purpose of connecting an underground system with the existing facilities.

E. Temporary service facilities, such as facilities to furnish emergency service during an outage, facilities to provide service to construction sites, or other service of a limited duration, such as to a fair, carnival, outdoor exhibit or function where the facilities will be installed for a temporary period only.

F. New service drops or improvement of existing service drops from existing overhead lines to single family residential customers, except when underground service is required by the town subdivision regulations.

Section 7-5-4 Town Participation as Developer

In the event of relocation, improvement or repair of existing utility poles and wires or installation of new utility poles and wires by the serving utility, the town may elect to act as a developer and participate in the cost of underground installation in accordance with the underground installation policy of the utility. Prior to commencing any relocation, improvement or installation work within the town, the serving utility shall notify the town engineer of the pending action. Within thirty days of receipt of notification, the town will determine its intent to act as developer and notify the utility of the decision.

Section 7-5-5 Waiver of Underground Installation Requirements

The council, upon petition by a developer, may waive or modify the requirements for underground installation of existing or new utility lines based on the findings that the strict enforcement of this article would constitute an undue hardship on the developer and the minimal benefits would accrue to the town. The council's decision shall include but not be limited to review and analysis of the following factors:

A. The extent of existing overhead lines and poles in the immediate area of the project.

B. The location and heights of such poles and wires and their relation to present or future roads.

C. The crossing of such lines over much traveled highways or streets.

D. The proximity of such lines to schools, churches, commercial areas or other places where people congregate.

E. The aesthetic appearance of that portion of the town should the lines be installed overhead instead of underground.

F. The impact on future development expected in the area.

G. The practicality and feasibility of underground installation with due regard for the comparative costs between underground overhead installations; however, a mere showing that an underground installation is more costly than overhead shall not be the sole criteria for granting a waiver.

ARTICLE 7-6 PLANNING AND ENGINEERING REVIEW, CONSTRUCTION MONITORING, BUILDING SAFETY, FIRE PREVENSTION AND FEES[1]

7-6-1 General: Planning and Engineering Review and Construction Monitoring Fees
7-6-2 Technical Study Review Fees
7-6-3 Engineering Plan Review Fees
7-6-4 Construction Monitoring Fees
7-6-5 GIS/Mapping Fees
7-6-6 Planning Administrative Fees
7-6-7 Planning and Zoning Review Fees
7-6-8 General: Building Safety and Permitting Fees
7-6-9 Valuation
7-6-10 Fee table
7-6-11 Permit fees
7-6-12 Building Safety Plan Review Fees
7-6-13 Building Safety Inspection Fees
7-6-14 Miscellaneous Building Safety And Permitting Fees
7-6-15 General Fire Prevention Fees
7-6-16 Fire Prevention Permit Fees
7-6-17 Fire Prevention Plan Review Fees
7-6-18 Miscellaneous Fire Prevention Fees

Section 7-6-1 General: Planning and Engineering Review and Construction Monitoring Fees

Fees are charged for the following services provided by the Town of Queen Creek:

A. Review of site plan, development plan, design review, plats, zoning and other documents submitted through the Town's Planning Processes;

B. Review of technical studies, reports, drawings and documents for drainage, water, sewer, sewer pre-treatment, traffic, property surveys, environmental, geotechnical, and other reports related to permits issued by the Town;

[1]Ordinance 68-95 revised by Ordinance 215-02; Ordinance 294-04 and 424-08; 444-09;447-09& 463-09, 482-10

C. Review of construction drawings for grading, paving, utilities, drainage facilities, flood irrigation, landscaping, parks, trail systems, sidewalks, streetlight improvement districts, signing, striping, traffic signals and other work permitted by the Town;

D. Construction monitoring of grading, paving, utility installation, drainage facilities, flood irrigation, landscaping, parks, trails systems, sidewalks, streetlights, signing, striping, traffic signals and other work permitted by the Town;

E. Collection and preparation of data relating to "as-built" construction in a GIS Format; and

F. Preparing new addresses and address changes for residential and commercial/retail properties.

Section 7-6-2 Technical Study Review Fees

A. Final Drainage Report	
1. Master residential (≥500 lots)	$1,200 + $1/ lot
2. Individual parcel within master residential	$500
3. Major residential (>10 lots)	$300 + $25/acre
4. Minor residential (1 to 10 lots)	$500
5. Commercial subdivision	$500 + $25/acre
6. Individual commercial	$500
7. Coordination with MCFCD/PCFCD	$800
B. Final Water Report	$200 + $1 /lot
C. Final Sewer Report	$200 + $1 /lot
D. Sewer Pre-Treatment	$200 + $1 /lot
E. Final Traffic Report	
1. Master residential (≥500 lots)	$1,200
2. Major residential (requiring traffic report)	$850
3. Commercial subdivision (≥20 acres)	$850
4. Individual commercial (<20 acres)	$500
5. Surcharge for general plan regional commercial zone	$400
6. Amendment to commercial or residential	$250
F. Geotechnical Report	$400 + $1/ lot
G. Final Environmental Report	$200 + $1/lot
H. Fissure Report	$400 + $1/lot
I. C.C.& R. Report	$100
J. ALTA Survey	$150

Section 7-6-3 ENGINEERING Plan Review Fees**

BUILDINGS AND BUILDING REGULATIONS

A. Final Plat	$1,200 + $20/lot
B. Final Plat Amendment	50% of original Final Plat Fee
C. Site Grading Plans	$275/sheet
D. Paving Plans with Ribbon Curb	$275/sheet
E. Paving Plans with Curb and Gutter	$275/sheet
F. Signing and Striping Plans	$275/sheet
G. Sewer Plans	$275/sheet
H. Drainage Channel/Storm Drain Plans	$275/sheet
I. Water Plans *(1)*	$275/sheet
J. Flood Irrigation Plans	$275/sheet
K. Landscape and Irrigation Plans	$275/sheet
L. S.L.I.D. assessment Diagrams & Documents	$1,000/sheet
M. Multi-Family Site improvement Plans	$500/sheet + $100/ acre
N. Office and Condominium	$500/sheet + $100/acre
O. Commercial Site Improvement Plans	$500/sheet + $100/acre
P. Industrial Site Improvement Plans	$500/sheet + $100/acre
Q. Street Light Improvement Plans	$275**/**sheet
R. As-built plan reviews	$100/each
S. Engineers Cost Estimate	$250/each
T. Revisions of approved plans	$100/each
U. Map of Dedication	$1,500
V. Lot Split/Lot Tie/Lot Adjustment	$350
W. Easement Abandonment	$1,000 for a single family property;$1,500 for non-residential or subdivisions
X. Easement Dedication	$1,000 for a single family property;$1,500 for non-residential or subdivisions
Y. Right of Way Abandonment	$1,000 for a single family property;$1,500 for non-residential or subdivisions
Z. Right of Way Dedication	$1,000 for a single family property;$1,500 for non-residential or subdivisions
1. Application for modification or correction of Assessments	$500 base fee, plus all outside engineering and legal fees incurred by the Town
2. Assurance of Construction Documents	$500
3. Modification to assurances of construction, including but not limited to reductions, substitutions and lot sale prohibitions	$400/occurrence
4. Special Studies (as required)	Actual Consultant Cost, plus 15%
5. Certificate of Correction	$500/application
6. Subdivision Recording(1)	Actual Expense to Town + $93 administrative fee

******all review fees are for first and second submittal. Third and subsequent submittals will be at 15% of original engineering plan review fee.

Notes:

(1) Separate subdivision recording fees are charged by Maricopa County Recorder's Office. The Town of Queen Creek collects both fees.

Section 7-6-4 Construction Monitoring Fees

Processing fee	**Unit**	**Unit Cost**
Permit Application Fee	EA	$80
Permit extension (up to 180 days)	EA	$80

Permit refund (prior to commencing work) 80% of fee maximum (no later than 30 days after permit expiration, and upon written request by the Applicant

Paving	**Unit**	**Unit Cost**
Adj. Str. to Fin. Gr.	EA	$10.00
Asphalt Paving - Streets	SY	$0.35
Barricades	EA	$30.00
Guard Rail	LF	$0.50
Overlay - Streets	SY	$0.15
Overlay with Milling	SY	$0.20
Paving - On Site	SY	$0.10
Q.C. Survey Monuments	EA	$10.00
Town street Signs & Bases	EA	$5.00

Concrete	**Unit**	**Unit Cost**
ADA Ramps	EA	$25.00
Aprons	EA	$12.00
Curb & Gutter	LF	$0.20
Decorative Pavers	SF	$0.45
Driveways - Commercial	EA	$100.00
Driveways - Residential	EA	$25.00
Pipe Encasement	EA	$50.00
Scuppers	EA	$20.00
Sidewalk	SF	$0.08
Valley Gutter	LF	$0.30

Water	**Unit**	**Unit Cost**
Backflow Device	EA	$50.00
Fire Hydrants	EA	$15.00
Water Lines (Backfill)	LF	$1.00
Services (In Right of Way)	LF	$0.25

Sewer	**Unit**	**Unit Cost**
Clean Outs	EA	$35.00
Interceptor	EA	$250.00
Manholes	EA	$50.00
Sewer Line with Video	LF	$1.25
Sewer Lines	LF	$0.75
Sewer Services (Right of Way)	LF	$0.50
Taps	EA	$50.00

Site Grading/Drainage	**Unit**	**Unit Cost**
Catch Basins	EA	$40.00
Commercial (1 acre min.)	ACRE	$250.00
Cutoff Walls	LF	$0.20
Drywells	EA	$70.00
Headwalls	EA	$40.00
Manholes	EA	$50.00
Residential (Non-Subdivision)	ACRE	$100.00
Residential (Subdivision)	LOT	$10.00
Retention Basins	ACRE	$250.00
Slope Protection	SY	$0.35
Storm Drains	LF	$0.95

Street Lights	**Unit**	**Unit Cost**
St. Lights (includes SRP set-up)	EA	$230.00

Traffic Signals	**Unit**	**Unit Cost**
Trafic Inter-tie Conduit	LF	$0.20
Traffic Signals	EA	$50.00

Miscellaneous	**Unit**	**Unit Cost**
Irrigation Lines	LF	$0.50
Utility Trench Crossings	EA	$10.00
Utility Trenches	LF	$0.20
Landscaping & Irrigation	SF	$0.01
Mail box	EA	$20.00

Overtime Inspection	**Unit**	**Unit Cost**
Weekdays (1 hr. min)	HR	$90
Weekends (4 hr. min)	HR	$90.00
Holidays (4 hr. Min)	HR	$120.00

Section 7-6-5 GIS/Mapping Fees

BUILDINGS AND BUILDING REGULATIONS

GIS/Mapping fees are currently built into the Construction Monitoring Fees.

Section 7-6-6 PLANNING Administrative Fees

A. Address Assignment during subdivision process	$5/address
B. Address Assignment at time of building permit *(1)*	$10/address
C. Address Assigned to vacant property prior to subdivision or permit	$25/address
D. Address changed during subdivision process	$5/address
E. Street Number Change	$50/address
F. Street Name Change	$500/street
G. Board of Adjustment	$300
H. Appeal/Zoning Administrator	$300
I. Continuance – at applicant's request (otherwise explicitly provided in this section	$250
J. Time Extension – at applicant's request	$250
K. Zoning Confirmation letter	$250
L. Zoning Interpretation letter	$250
M. Mailing labels if not provided	$2/label
N. Public Hearing Sign – Provision & Posting	$300/sign
O. Group Care Home	$250
P. Work begun without Town authorization	Double current rates

Notes:

(1) There is no fee for address assignments to utility meters or other addresses not assigned to buildings.

Section 7-6-7 Planning and Zoning Review Fees

All application fees are non-refundable.

A. Pre-Application		$350/meeting
B. Annexation		
	≥ 20 acres	$1,600
	< 20 acres	$1,200
C. Temporary Use		$250
D. Conditional Use		
	Residential	$250 + $30/acre + $50 fire review
	Commercial	$1,000 + $30/acre + $50 fire review
E. Design Review		$1,500
F. Design Review/Modification		$500
G. Preliminary Plat		$1,600 + $40/lot
H. General Plan/Area Specific Amendment		
	Minor	$2,000 + $20/acre
	Major	$5,500 + $20/acre

I. Continuance of General Plan / Area Specific Plan Amendment Applications (as requested by the applicant)	50% of Original General Plan Amendment / Area Specific Amendment Application Fee
J. Sign Permit Application	$125 per individual sign
K. Comprehensive Sign Package	$750
L. Site Plan	
Residential	$1,300 + $50/acre
Non-Residential	$2,000 + $50/acre
M. Site Plan Amendment (1)	50% of original fee
N. Subdivision	$1,000 + $20/lot
O. Text Amendment: Zoning Ordinance	$2,000
P. Text Amendment: Sub. Ordinance	$2,000
Q. Text Amendment: General Plan	$2,000
R. Rezoning	
<20 acres	$1,600 + $50/acre
≥20 acres	$2,000 + $50/acre
S. Planned Area Development (PAD)	
<20 acres	$1,600 + $50/ acre
≥20 acres	$2,000 + $50/acre
T. PAD Amendments	50% of original fee
U. Variance	
Residential Minor (2)	$100
Residential Standard (3)	$500
Commercial	$1,000

Notes: (1-3)

(1) Amendments that are determined by the Zoning Administrator to constitute a substantial change in the Council adopted plan, shall be required to remit the entire original filing fee.

(2) Minor Variance=A determination made by the Zoning Administrator consisting of an addition to any structure that is less than 20% of the aggregate site's building area or two (2) feet or less encroachments. Examples include small room additions, patio covers.

(3) Standard Variance=A determination made by the Zoning Administrator consisting of any addition to any structure that is greater than 20% of the aggregate site's building area and encroachments greater than two (2) feet.

SECTION 7-6-8 GENERAL: BUILDING SAFETY AND PERMITTING FEES

A. The purpose of the permit fees are to ensure that the costs for providing enforcement and administration services are borne entirely by the construction activity prompting the need for such services.

B. The fee for each permit and other services provided by the Building Safety Division shall be as set forth in Article 7-6.

C. The effective date for revisions to the schedule of fees and charges shall be as stated in the ordinance adopted by the Town Council.

SECTION 7-6-9 VALUATION

The valuation data table referred to herein shall be used to calculate the construction valuation used in computing building permit and plan review fees. For the purposes of determining valuation the most current valuation table as published in February 2008 issue of the Building Safety Journal published by The International Code Council shall be used. The valuation table will be kept on file with the Town Clerk's office, or may also be obtained directly from the International Code Council at 500 New Jersey Avenue, Nw, 6th Floor, Washington, D.C. 20001-2070, the construction valuation shall include the total value of the proposed work, including structural, electrical, plumbing, mechanical, interior finish and normal site preparation. The data does not include the cost of the land. Actual construction costs may exceed or be less than the building valuation designated herein. The building valuation is the average cost based on published data.

The valuation data table does not apply to alterations or repairs to existing buildings. Alterations and repairs shall be determined by actual construction costs. For reference purposes the Building Official may use published data such as Rs Means Building Construction Cost Data when the construction costs submitted is in question. Any valuation not specifically provided for shall be determined by the Building Official and shall be classified in the use and construction type it most nearly resembles.

The Building Official shall update the valuation data table on March 1 of each year with the most current valuation data table published in February of each year in the Building Safety Journal Published by The International Code Council.

The valuation table currently in effect will be kept on file with the Town Clerks office, or may also be obtained directly from the International Code Council At 500 New Jersey Avenue, Nw, 6th Floor, Washington, D.C. 20001-2070,

SECTION 7-6-10 FEE TABLE

TOTAL VALUATION	fee
$1.00 TO $500	$24.00
$501 TO $2,000	$24.00 for the first $500; plus $3 for each additional $100, or fraction thereof, to and including $2,000.
$2,001 TO $40,000	$69.00 for the first $2,000.00 plus $11.00 for each additional $1,000, or fraction thereof, to and including $40,000.

$40,001 TO $100,000	$487.00 for the first $40,000 plus $9.00 for each additional $1,000.00, or fraction thereof, to and including $100,000.
$100,001 TO $500,000	$1,027 for the first $100,000 plus $7.00 for each additional $1,000 or fraction thereof, to and including $500,000.
$500,001 TO $ 1,000,000	$3,827 for the first $500,000 plus $5 for each additional $1,000.00, or fraction thereof, to and including $1,000,000
$1,000,001 TO $5,000,000	$6,327 for the first $1,000,000 plus $3 for each additional $1,000.00, or fraction thereof, to and including $5,000,000
$5,000,001 AND OVER	$18,327 for the first $5,000,000.00 plus $1.00 for each additional $1,000, or fraction thereof

BUILDING AREA: For fee calculation purposes, the building area in square feet shall be the total area of all floors under roof and enclosed within the outer surfaces of the exterior surrounding walls or columns. Building area includes roofed patios, roofed porches, bay windows, basements, mezzanines, penthouses and other mechanical spaces. Building area does not include roof eaves not exceeding 3 feet in horizontal projection, overhangs not exceeding 3 feet in horizontal projection, courts open at the top, vent shafts open at the top, unroofed patios and unroofed porches.

SECTION 7-6-11 PERMIT FEES (Shall be based on the valuation table or the applicant's valuation – whichever is greater).

1. Building permit – combination (not including fire systems) per fee table
2. Building permit (stand alone permit) 60% of fee table
3. Plumbing permit (stand alone permit) 25% of fee table
4. Electrical permit (stand alone permit) 10% of fee table
5. Mechanical permit (stand alone permit) 5% of fee table

A stand alone permit shall also include a $20 administrative fee for each permit.

6. Demolition permit:
   - residential accessory structure $100
   - one- or two family dwelling $100
   - structures other than above (per structure) $200

7. Fence/wall permit
   a) single family open style fence (such as but not limited to rail or wire) $98
   b) single family solid style fence: (any fencing that can divert water flow) $198
   c) subdivision perimeter fence/walls 40% of fee table

d) other than single family — per fee table

8. Swimming pool permit
   a) in-ground pools and spas (includes stand-alone permits. does not include fences/wall - barrier) — $225

   b) above-ground pools and spas (includes stand-alone permits. does not include fences/wall - barrier) — $150

9. Temporary construction/sales trailer* — $200
   *(INSTALLATION ONLY – SEPARATE PERMITS REQUIRED FOR ELECTRICAL, WATER, AND SEWER.)

10. Manufactured home permit (permit & 2 inspections) — $280
11. Temporary electric power permit — $95
12. Sewer connection permit — $95
13. Building relocation permit (electric, mech., plumbing permit is not included — $100 each
14. Permit extension (up to 180 days) — $50
15. Renew expired permit (after permit extension expires):
    A new permit fee shall be paid based on the current fee schedule

16. Noise permit — $150
17. "Foundation-only" permit — 20% of applicable permit fee
    Foundation only permit premiums shall not be credited toward the building permit or any other fee.

18. Utility clearance permit * (2 inspections maximum) — $150
    *for inspection required by utility provider when a construction permit is not applicable.

19. Re-roofing (2 inspections) — $150

20. Permits for existing one- and two family dwellings (except swimming pools), including but not limited to, interior alterations, detached garages, carports, storage sheds requiring permits, patio covers and gazebos or similar structures. — per fee table based on valuation

21. Pool barrier enclosures — per fee table based on valuation

22. Temporary structures (180 days maximum) — per fee table based on valuation

23. Occupancy verification (no construction required) — $75.00/hr
    (two hour minimum which includes the inspection**)**

24. Annual Facilities Permit — Primary site: $500/calendar year

    Each additional site: $250/calendar year

    Plan review and inspections: $70/hour, minimum 1 hour

*25. Single Family Residential Grid-Tied Photovoltaic System $375
(includes one plan review and two inspections)

*26. Single Family Residential Solar Hot Water Heating System $150
(includes one plan review and one inspection)

*Ordinance 478-10

SECTION 7-6-12 BUILDING SAFETY PLAN REVIEW FEES

1. Single family
   a) new, additions, remodels 65% of applicable permit fee
   b) standard plan (use of approved plan on file.) $50

2. Other than single family (new, additions, remodels) 65% of applicable permit fee
   a) additional and subsequent identical building located on the same lot or development and submitted at the same time. $50

3. Combination permit (includes bldg, plumb, elect, mech) 65% of applicable permit fee

4. Plumbing (stand alone) 65% of applicable permit fee
5. Electrical (stand alone) 65% of applicable permit fee
6. Mechanical (stand alone) 65% of applicable permit fee
7. Swimming pool $40
   a) in-ground pool & spas $40
   b) above ground pools & spas
8. Addendum / revisions $180 non-refundable
9. Demolition $ 40
10. Deferred submittals $180 non-refundable
11. Fence/wall $75
12. Miscellaneous plan review $40/ sheet

13. Third and subsequent plan reviews 15% of applicable permit fee (due at submittal)
14. Code update/existing standard plan review $325/plan

SECTION 7-6-13 BUILDING SAFETY INSPECTION FEES

1. Re-inspection fee $75 (plus 24 hour delay)
2. Unauthorized construction: equal to the applicable permit fee
3. Timed inspections $75/hr (two hour minimum)
4. Inspections outside normal business hours $75/hr (two hour minimum)

5. Inspections for which no fee is specified $75/hr (one hour minimum)
6. Preliminary inspection $75/hr (one hour minimum)

SECTION 7-6-14 MISCELLANEOUS BUILDING SAFETY AND PERMITTING FEES

1. Certificate of occupancy issued at conclusion of all code required construction — no additional charge (included with permit fee)

2. Written response to requests for building code alternate methods, materials and equipment, or policy issues. Non-refundable, paid at application time. — $250

3. Appeals, modifications and formal interpretation of code for single family project — $180

4. Appeals, modifications and formal interpretation of code for non-single family project — $360

5. Extended construction work hours permit — $250

6. Special studies (as required) — actual consultant cost

7. Subscription service — $12/report

8. Illegible or oversized plans (exceeding 24”x36” where allowed). Building permit drawings submitted on larger than 24" x 36" sheets shall be subject to a premium fee, over and above the plan review fee, of $75 per sheet, as applicable.

9. Replacement of lost plans — $90 per plan or actual cost, whichever is greater

10. Replacement of inspection record card — $20
11. Replacement certificate of occupancy — $20
12. Residential certificate of occupancy — $40
13. Replacement of permit — $20
14. Building code board of appeals (non-refundable) — $250
15. Temporary certificate of occupancy
    a) initial issuance — no charge
    b) subsequent extensions (non refundable) — $250/extension

16. Refund: permit fees prior to commencing work - 80% of fee maximum (no later than 30 days after permit expiration, and upon written request by the applicant)

17. Refund: plan review fees, prior to review - 80% of fee maximum (upon written request by the applicant)

SECTION 7-6-15: GENERAL FIRE PREVENTION FEES: FIRE PREVENTION PERMITTING, FIRE PREVENTION PLAN REVIEW, FIRE PREVENTION INSPECTION FEES[1]

BUILDINGS AND BUILDING REGULATIONS

A. General (Fire Prevention Fees): The Town's fees for plan reviews, construction permits, operating permits, occupancy inspections annual assessments, fire watch personnel, appeals and other Fire Prevention fees shall be in accordance with this ordinance and the fee schedule herein. The Fire Prevention fee schedule has been determined by the average time to complete the type of service being rendered at an hourly rate of $100 per hour (excluding Emergency Medical Equipment, Standby Personnel, and Consultant fees). Additional time to complete the services outlined herein, otherwise explicitly provided in this ordinance, will be assessed at the hourly rate.

B. Permits: The Town issues Fire Prevention permits for Operational, Occupancy and Construction inspections. Other inspection services are available through prior arrangement with the Town's Fire Prevention Bureau along with payment of the appropriate fee(s). These additional inspection services provided by the Town include overtime inspections, re-inspections, optional (non-required) inspections and requests for time-specific inspections. Fees for additional inspection services include one inspection and one re-inspection. Additional inspections will require a re-inspection fee.

C. Operational Permits and Occupancy Inspections: The Operational Permits and Occupancy Inspections are both designed to allow for fire prevention inspections by the Fire Marshal, or designee, for activities that present potential fire and safety hazards to the citizens of Queen Creek and the community. Operations and occupancies subject to these permits and inspections require the Fire Inspector to take special precautions when implementing fire prevention measures. The Town's Fire Code (International Fire Code, 2006 edition, third printing, as amended in Section 7.2.10 of the Town Code), outlines specific operations that the Town is authorized to issue an operational permit on. Additionally, the Town's Fire Code requires all non-residential occupancies (businesses) to be inspected to determine adequate compliance with the Fire Code. The frequency of these inspections is outlined hereafter.

Operational Permits and Occupancy Inspections fees are organized into two categories: Category 1 - High, Medium, and Low Risk Inspections for Ongoing Operations/Occupancies (as defined in the Fire Code and in concurrence with this Ordinance); Category 2 - Onetime Events /Temporary Operations/Special Hazards.

In Category 1, designation as Low, Medium, or High Risk will determine the permit/inspection fee and the frequency of inspection. Designation as Low Risk shall result in a fire prevention inspection for the business once every 3 years and a permit fee of $35, paid triennially. Designation as Medium Risk shall result in a fire prevention inspection for the business once every 2 years and a permit fee of $75, paid biennially. Designation as High Risk shall result in a fire prevention inspection for the business each year and an annual permit fee of $100, plus an additional $75 annually for occupancies greater than 12,000 square feet. In Category 2, inspections and fees are per occurrence and as outlined in this Ordinance.

Operational Permits and Occupancy Inspections fees include one inspection and one re-inspection. Additional inspections will require a re-inspection fee.

D. Construction Permits: The following inspections are included in the Construction Permit fee: one rough-in, one follow-up and one final inspection. Additional construction inspections will require a re-inspection fee.

E. Construction Permit Expirations: Permits shall become invalid unless the work authorized by such permit is commenced and required inspections are requested by the

permitee within 180 days after its issuance, or if more that 180 days elapses between required inspections. The Fire Code Official shall be authorized to grant a one-time extension, per permit, for a period not to exceed 180 days. Permits shall not be extended more than once and all requests for extensions shall be in writing. In order to renew action on a permit after expiration, new permit fees shall be paid based on the current fee schedule adopted by the Town.

F. Re-inspection: A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. If the items that were identified during the first re-inspection of a particular phase are not corrected at the time of the re-inspection, no further fire inspections will be scheduled until the re-inspection fee is paid. Re-inspection fees may also be assessed when a permit is not posted or otherwise available on the work site, the approved plans are not readily available on-site for the Fire Inspector, for failure to provide access on the date for which inspection is requested, failure to have a competent party on-site or deviating from approved plans requiring the approval of the Fire Inspector or designee. Re-inspections fees will comply with the adopted fee schedule.

G. General Inspections: Otherwise explicitly provided in this ordinance, Inspection fees include one inspection and one re-inspection. Additional inspections will require a re-inspection fee.

H. Plan Review Fees: Plan review fees offset the Town's costs for the review of plans to determine compliance with applicable codes and ordinances. Fire Prevention plan review fees shall be in accordance with this ordinance and include one initial plan review and one subsequent (second) plan review. Any submittals that require third or subsequent reviews shall be charged an additional plan review fee in accordance with the fee schedule.

I. Unauthorized Construction: When the Fire Inspector, or designee, determines that construction or grading work have commenced and the applicable fees were not paid, a penalty equal to the cost of the required construction permit fees shall be assessed for the work. This fee is due and payable even if a permit is not issued. This fee is non-refundable.

J. Technical/Scientific Report Review Fee: A technical or scientific report is a document that describes the process, progress, and or results of technical or scientific research or the state of a technical or scientific research problem. It might also include recommendations and conclusion of the research. A Technical/Scientific Report may be required to demonstrate/validate the effectiveness of new or non standard processes. The review fee for a Technical/Scientific Report shall be $100 per hour, with a two hour minimum. Additional review time shall be assessed at $100 per hour.

K. Appeals Board: An Appeal of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code shall be submitted to the Board of Appeals in accordance with Section 108 of the currently adopted International Fire Code. Appeal fees shall comply with the currently adopted fee schedule.

L. Fire Watch Fees: When Fire Department personnel are required by the Fire Code to stand fire watch, the individual required to provide such service shall pay a minimum fee of $100 per person, 3 hours minimum. If the time period exceeds 3 hours, an additional fee of $100 shall be paid for each hour, or portion thereof, for each person assigned.

M. Emergency Medical Equipment and Standby Personnel Fees: Emergency Medical Equipment and Standby Personnel fees help recover the cost of having firefighters, paramedics,

and equipment on standby at a large/special event in case of an emergency. These events may include, but not limited to, concerts, carnivals, large outdoor assembly events and trade shows. These fees are also applicable when Town of Queen Creek firefighters, paramedics, and equipment are used to provide service outside the Towns incorporated boundaries and concurrently outside the Automatic Aid System.

N. Payment of Fees: A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid. A fee for each permit shall be paid as required, in accordance with the currently adopted fee schedule as established by the Town. Permit fees shall be paid at the time of issuance of a permit.
The estimated plan review fees shall be collected at the time of plan acceptance for initial review and any subsequent review. Plan review fees not captured in the plan review fee estimate (resulting from additional system elements, system components and time to perform the required plan review as outlined in this ordinance), are due at the time of plan acceptance for any subsequent review. If the plan review has been completed, any unpaid plan review fees are due at the time of issuance of a corresponding permit. If the permit has not been issued and expiration of the plan review time period has passed, as noted in Section 7.1.4.3.2 of the Queen Creek Town Code, the plan review fees shall become due and payable.

Fees for services other than plan reviews and permits, such as Fire Watch, Emergency Medical Equipment and Standby Personnel, shall be billed to the person for which such service was rendered and due upon receipt or as approved by the Town; Except fees for appeals, after-hour inspections, applicable re-inspections, outside consultant fees, and hazardous material abatement which shall be paid prior to services being rendered or as approved by the Town.

[1] Ordinance 482-10

SECTION 7-6-16: FIRE PREVENTION PERMIT FEES[1]

OPERATIONAL PERMITS AND OCCUPANCY INSPECTIONS

CATEGORY 1: High, Medium, and Low Risk Inspections for Ongoing Operations

1. High Risk - Annual Operating Permit / Occupancy Inspection — $100.00 annually; an additional $75 annually If > than 12,000 square feet

High Risk Inspections Include the Following Occupancies:

a) I – institutional
b) H – hazardous (Hazmat assessment fee may also apply)
c) R4 – residential
d) A – assembly > 100 occupant load
e) M – mercantile>50,000 square feet
f) B – business> 50,000 square feet
g) Multi-floor > 3 stories
h) E – educational
i) F – factory w/special processes or hazards
j) Occupancy w/ exhaust hood ≥ 50 occupant load

2. Medium Risk - Biennial Operating Permit / Occupancy Inspection: $75.00

Medium Risk Inspections Include the Following Occupancies:

a) A – assembly ≤ 100 occupant load
b) F – factory w/o special processes
c) S – storage (s1)
d) R1/R2 – residential
e) M – mercantile ≥12,000-50,000 square feet
f) B – business ≥12,000 – 50,000 square feet
g) Occupancy w/exhaust hood < 50 occupant load

3. Low Risk – Triennial Fire Prevention Occupancy Inspection: $35.00

Low Risk Inspections Include the Following Occupancies:

a) s – storage (S2)
b) b – business < 12,000 square feet
c) m – mercantile < 12,000 square feet
d) u – unclassified

CATEGORY 2: One Time Events / Temporary Operations / Special Hazards

1. Carnivals and fairs $200

2. Carnivals & fairs: special scaffolding Type structures $200

3. Explosive & blasting agents, blasting operations, fireworks blasting operations renewal:

a) Storage, permanent or temporary $100
b) Conduct blasting operations each site 1 – 30 days $200 + $100 for each additional 30 days or fraction thereof

c) Supervised Public Display of Fireworks (pyrotechnics): new location $200

d) Supervised Public Display of Fireworks (pyrotechnics): per day $75

4. Places of assembly
a) 1-5000 sq ft trade show $150

b) Greater than 5000 sq ft trade show $300

5. Temporary membrane structures, tents & canopies:
a) 200 to 700 square feet $200
b) Greater than 700 square feet $300
c) Each additional tent, canopy or temporary membrane structure at same event $100
d) To erect an air-supported temporary membrane structure $200

Note: Tent permit submittals shall be submitted 10 days in advance of the event. A fee of $25 per day progressive penalty shall be assessed for permit applications not submitted 10 business days prior to the event.

6. All other special events, one-time events, temporary operations or special hazards requiring an Operational Permit by the Queen Creek Fire Code $100

7. Hazardous Materials: To store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20 of the Queen Creek Fire Code $200

8. Liquefied petroleum gasses – LPG:
   a) Store, handle, use $100
   b) Greater than 125 gal. $175
   c) With fire protection equipment $300

CONSTRUCTION PERMITS

1. Access:
   a) Access Gate (Automatic) $150
   b) Access Gate (Manual) $ 50
   c) Access Roadways $100
   d) Alternative Surface Access Roads $100
   e) Address Directories $ 50

2. Amusement Building (Special) $100
3. Battery Systems $200
4. Combustible Dust Producing Operations $100
5. Compressed Gas Systems:
   a) compressed gas system (in excess of exempt quantities): Install, repair, abandon, remove, place out of service, close or substantially modify $400
   b) Installation – this fee includes all systems and tanks installed at one site provided plans are submitted and inspections are conducted concurrently $400
   c) Modification $150

6. Cryogenic Fluid Systems: Installation (fee includes all systems and tanks Installed at one site provided inspections are conducted concurrently $300
7. Cryogenic Fluid Systems: modification $150
8. Fire Fighter Breathing Air Systems: Installation $250
9. Fire Fighter Breathing Air Systems: modification $100

10. Fire Sprinkler Systems:
    a) The base permit fee to install an automatic sprinkler system is $250. This fee is for the inspection (one rough-in, one follow-up and one final inspection) of one building, no greater than 50,000 sq. ft with 1-2 calculations. The maximum inspection time covered by this base permit is two and one-half hours. Additional inspection time will be calculated at the rate of $100/hour.

    Base Permit Fee $250

Installations requiring additional system elements shall be assessed the base permit fee plus the additional permit fees indicated below (b-s):

b) Additional calculations (design areas) 12,001 sq. ft – 50,000 sq. ft. $100

c) Each additional 50,000 sq. ft. or fraction thereof $100
d) Each additional building using the same fire protection design plan $200
e) Each additional story above or below grade $100
f) Each PRV (pressure relief valve) $ 50
g) Installation of each water-based special extinguishing system $100
Note: This does not include any associated detection or fire alarm equipment
h) Each pre-action system $150
i) Each deluge system $150
j) Each aqueous film forming foam-water based system $200
k) Each in-rack sprinkler system $100
l) Each UL or FM fire pumps, jockey pumps, and controller $500
m) Each static water tank $200
n) Each high challenge commodity (exception: Group A Plastics) $200
0) Each standpipes per stair $150
p) Standpipe System 1-4 outlets not part of a sprinkler system $200
q) Each additional floor level outlet $ 50
r) UL or FM fire pumps, jockey pumps, and controllers not part of a sprinkler system $500
s) Inspection of Halon, Dry Chemical, Carbon Monoxide Extinguishing Systems, FM 200 or other Special Extinguishing Systems $250

11. Fire Sprinkler Systems Modification:
a) 1-200 heads $200
b) Each additional 1-200 heads, or fraction thereof $200
c) Each story above or below $100

12. Fire Alarm Systems:
a) The base permit fee to install a fire alarm system (including initiating/notification devices and fire alarm panel replacement) is $250. This fee is for the inspection (one rough-in, one follow-up and one final inspection) of one building, no greater than 50,000 sq. ft. The maximum inspection time covered by this base permit is two and one-half hours. Additional inspection time will be calculated at the rate of $100/hour.

Base Permit Fee: $250

Installations requiring additional system elements shall be assessed the base permit fee plus the additional permit fees indicated below (b-k):

b) Each additional building using the same fire protection design plan $200
c) Each additional 50,000 sq. ft. or fraction thereof $200
d) Each additional story above or below grade $100
e) First 1-10 flame detection devices $100
f) Each additional 1-10 flame detection devices $100
g) First 1-10 beam detection devices $100
h) Each additional 1-10 beam detection devices $100
i) First 1-10 emergency voice/alarm communication devices (fire phone, speakers) $100
j) Each additional 1-10 emergency voice/alarm communication devices $100
k) For area detection throughout based on sq. ft. base rate plus additional 50%
50% alarm fee

13. Fire Alarm Systems Modification:

a) Modify fire alarm system (1-5 devices)		$100
b) Each additional 1-25 devices		$100
14. Flammable or Combustible Liquids:		
a) Install a single underground tank		$300
b) Install a single aboveground tank		$300
c) Each additional tank		$150
d) Tanks with fire protection	additional	$200
15. Flammable Finishes/Spraying or Dipping: Installation		$300
16. Flammable Finishes/Spraying or Dipping: Modification		$100
17. Hazardous Materials:		
a) Hazardous Materials containers and tank installation (single)		$200
b) Removal (single)		$200
c) Abandon, place out of service (close or modify)		$100
18. Industrial Ovens		$100
19. Automatic Hood Systems, Commercial		$100
20. Liquefied Petroleum Gases (LP-Gas)		$200
21. Private Fire Hydrants		$100
22. Refrigerator Systems, Anhydrous Ammonia		$200
23. Removal (of systems) permit		$100
24. Remove Class I or Class II liquids from underground or aboveground tank or Slurry fill an underground tank or abandon an underground, aboveground tank or clean inside a tank		$200
25. Smoke and heat vents		$100
26. Smoke removal systems		$100
27. Temporary Membrane Structures and Tents: Temporary membrane structures and tents over 700 square feet (a detailed site and floor plan for tents, canopies or membrane structures with an occupant load of 50 or more shall be provided with each application for approval. The tent, canopy or membrane structure floor plan shall indicate details of the means of egress facilities, seating capacity, arrangement of the seating and location of illuminated exit signs; no smoking signs, emergency lighting, type of heating, and electrical equipment)		$100
28. Underground fire lines		$100
29. Underground fire lines: Each fire protection system lead-in or stub-out		$100
30. Underground fire lines: modification		$100
31. Permit reinstate after expiration		100% of current fee for permit
32. Unauthorized construction, investigation fee		$200
33. All other permits required by this code		$100

[1] Ordinance 482-10

SECTION 7-6-17: FIRE PREVENTION PLAN REVIEW FEES[1]

1. Access:
   a) Install or modify automatic fire apparatus access Gates and their appurtenances. This also includes Gates for auxiliary access openings $150
   b) Install or modify manual gate $ 50
   c) To install striping and signage of fire lanes $100
   d) Premise identification review; fire lane marking, identification of fire protection equipment, key boxes, stairwell identification, and pedestrian gates. $100
   e) To review the installation or modifications of address directories $ 50

2. Civil Plan Review Fees
   a) The plan review minimum fee is to review plans for installation, alteration or modification of underground fire lines which serve fire protection systems, hydrants, or any combination thereof. $300
   b) Each connection to a Town water main including up to 500 lineal feet of pipe $150
   c) Each additional 500 fee or fraction thereof $100
   d) Each fire protection system lead-in (or stub-out) $100

3. Fire Building Plan Review
   a) To review building plans: all occupancies, including town homes (Exception: 1 and 2 family dwellings). The Fire Building Plan Review fee is to review the first 50,000 sq ft of one building. The minimum plan review time is two and one-half Hours; additional plan review time will be calculated at the rate of $100/hr. $250
   b) Each additional 50,000 sq ft or fraction thereof $100
   c) Each additional building (using the same plan) $100

4. Fire Sprinkler Systems
   a) The base plan review fee for an automatic sprinkler system is $250. This fee is for the review of one building, no greater than 50,000 sq ft with 1-2 calculations. The maximum plan review time covered by this fee is two and one-half hours. Additional review time will be calculated at the rate of $100/hr.

   Base Plan Review Fee: $250

Installations requiring additional system elements shall be assessed the base plan review fee plus the additional review fees indicated below (b-r):

   b) Additional calculations (design areas) 12,001 sq ft – 50,000 sq ft $100
   c) Each additional 50,000 sq ft or fraction thereof $100
   d) Each additional building using the same fire protection plan $100
   e) Each additional story above or below grade $100
   f) Each PRV (pressure reducing valve) $ 50
   g) Installation of each water-based special extinguishing system $100
      Note: This does not include any associated detection or fire alarm equipment
   h) Each pre-action system $150
   i) Each deluge system $150
   j) Each aqueous film forming foam-water based system $200
   k) Each in-rack sprinkler system $200
   l) Each UL or FM fire pumps, jockey pumps, and controller $200
   m) Each static water tank $200

n) Each high challenge commodity (exception: Group A plastics) $250
o) Each standpipes per stair $150
p) Standpipe System 1-4 outlets not part of a sprinkler system $100
q) UL or FM fire pumps, jockey pumps, and controllers not part of a sprinkler system $200
r) Halon, Dry Chemical, Carbon Dioxide Extinguishing System, FM 200 or other Special Extinguishing Systems $200

5. Fire Sprinkler Systems Modification:
a) 1-200 heads $100
b) Each additional 1-200 heads or fraction thereof $100
c) Each story above or below $100

6. Fire Alarm Systems:
a) The base plan review fee for a fire alarm system (including initiating/notification devices and fire alarm panel replacement) is $250. This fee is for the review of one building, no greater than 50,000 sq ft. The maximum plan review time covered by this fee is two and one-half hours. Additional review time will be calculated at the rate of $100/hr.

Base Plan Review Fee: $250

Installations requiring additional system elements shall be assessed the base plan review fee plus the additional review fees indicated below (b-k):

b) Each additional building using the same fire protection design plan $100
c) Each additional 50,000 sq ft or fraction thereof $100
d) Each additional story above or below grade $100
e) First 1-10 flame detection devices $100
f) Each additional 1-10 flame detection devices $100
g) First 1-10 beam detection devices $100
h) Each additional 1-10 beam detection devices $100
i) First 1-10 emergency voice/alarm communication devices (fire phone, speakers) $100
j) Each additional 1-10 emergency voice/alarm communication devices $100
k) For area detection throughout based on sq ft base rate plus additional 50% 50% Alarm Fee

7. Fire Alarm Systems Modification:
a) Modify fire alarm system (1 – 10 devices) $100
b) Each additional 1-25 devices $100

8. Smoke and heat vents & smoke removal systems:
a) First 1-10 smoke and heat devices $100
b) Each additional 10 devices or fraction thereof $ 50

9. Automatic Hood Systems, Commercial:
a) Install or modify an automatic hood system, installation: these systems include exhaust systems with built-in fire suppression capability normally installed above commercial cooking equipment $100
b) Each additional system $100

10. Flammable Finishes/Spraying or Dipping:
    a) Install a spray booth, spray room, spray area or powder coating booth $550
    b) Modification of spray booth, spray room, spray area or powder coating booth $200

11. Motor fuel-dispensing facilities and repair garages:
    a) Fuel storage tanks and dispensing $200

12. High-piled combustible storage:
    a) Minimum plan review for high piled combustible storage $200
    b) Each ceiling sprinkler system design area $200
    c) Each in-rack sprinkler system design area $200
    d) Each fire pump $200
    e) Each static water tank $200
    f) Each high challenge commodity (exception: Group A Plastics) $200
    g) Each fire test report used as a basis for the design $200

13. Hazardous materials:
    a) To install, repair, abandon, remove, place temporarily out of service, close or substantially modify a storage facility, building or chemical drainage and containment or other area regulated by Chapter 27 $300
    b) Install or modify a hazardous material storage tank; fee is per tank $150
    c) Install or modify gas cabinets, exhausted enclosures, or gas rooms $300

14. Compressed gas systems:
    a) Compressed gas system (in excess of exempt quantities): Install, repair, abandon, remove, place out of service, close or substantially modify. $300
    b) Installation – this fee includes all systems and tanks installed at one site provided plans are submitted and inspections are conducted concurrently. $300
    c) Modification $300

15. Cryogenics fluids:
    a) Install cryogenic fluid system $300
    b) Modification of cryogenics fluid system $200

16) Flammable and combustible liquids:
    a) Temporarily or permanently install an aboveground storage tank or pressure vessel for Class I, II or III-A liquids with a nominal capacity of 125 gallons outside a building. $400

    b) Temporarily or permanently install an aboveground storage tank or pressure vessel for Class I, II or III-A liquids with a nominal capacity of 125 gallons inside a building. $400

    c) Temporarily or permanently install an aboveground storage tank or pressure vessel for Class III-B liquids with a nominal capacity of 1,000 gallons or more $400

    d) Aboveground tank installation: This shall include all flammable/combustible liquid tanks installed aboveground, including tanks in vaults, and any required piping, valves and dispensing equipment. The fee is for each tank. $400

    e) Underground tank installation: This shall include all flammable/combustible liquid tanks installed underground, including tanks in vaults, and any required

piping, valves and dispensing equipment. The fee is for each tank. $400

f) Tanks with fixed fire protection systems additional $600

g) AG OR UG tank modification: This shall include all flammable/combustible liquid tanks and required piping, valves and dispensing equipment. Tank may be aboveground or underground type. Modification may include change of contents, reconstruction, tapping, tank cutting, vent pipe relocations, dispenser piping, tank repair or re-piping. The fee is for each tank. $250

h) Install underground tanks – this shall include all flammable/combustible liquid tanks installed underground and any required piping valves and dispensing equipment $200

i) Install, construct or equipment, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used. $100

j) Install hazardous materials containers or tank: this permit includes all hazardous materials container and tanks, required piping, valves and dispensing equipment. $150

17. Liquefied petroleum gases (LPG) (*Exception: a permit is not required to install alter or modify portable containers of less than 125 gallon aggregate water capacity used exclusively for vapor service)*:
a) Install, alter or modify LP-gas containers with an aggregate water capacity of 125 gallons (473 l) or more used exclusively for vapor service $200

b) Systems with fixed fire protection equipment $200

c) Install, move, relocate, alter or modify racks storing 20-pound cylinders for the purpose of conducting an LP-gas exchange program at a specific site $100

d) Install, alter or modify LP-gas containers used for liquid transfer service $200

18. Minimum Plan Review $100 per hour
19. Third and subsequent Plan Reviews 15% of Original Fire Prevention Plan Review Fee

[1]Ordinance 482-10

SECTION 7-6-18 MISCELLANEOUS FIRE PREVENTION FEES[1]

1. Inspections after hours (minimum 2 hours) $100/hour; 2 hour minimum

2. Re-Inspections. For each inspection or re-inspection when such portion of work for which and inspection is called is not complete or when corrections called for are not made (during Business Hours) $100 per hour

3. Outside Consultant Fees Actual consultant costs
4. Refund: Permit Fee prior to commencing work 80% of fee maximum

(*No later than 30 days after permit expiration and upon written request by applicant)*

5. Refund: Plan Review Fees, prior to review and upon written request by the applicant:	80% of fee maximum
6. False alarms for each that exceed 3 within one calendar year	$200 fine
7. Hazardous materials abatement	$300 per hour
8. Appeals – non-refundable	
a) Commercial occupancy	$360
b) Residential occupancy	$180
9. Emergency Medical Equipment and Standby Personnel	
a) Apparatus:	
i. Battalion Vehicle	$74.00/hr
ii. Fire Engine	$144.00/hr
iii. Water Tender	$113.00/hr
iv. Brush Truck	$76.00/hr
b) Personnel:	
i. Battalion Chief	$26.03/hr
ii. Fire Captain/CEP	$23.86/hr
iii. Fire Engineer/CEP	$20.41/hr
iv. Fire Fighter/CEP	$18.49/hr

10. Illegible or oversized plans (exceeding 24” x 36” where allowed). Permit drawing Submitted on larger than 24” x 36” shall be subject to a premium fee, over and above The plan review fee of $75.00 per sheet as applicable.

[1]Ordinance 482-10

Article 7-7 - DEVELOPMENT IMPACT FEE ORDINANCE[1]

Sec. 7.7-1. Title
Sec. 7.7-2. Legislative intent and purpose
Sec. 7.7-3. Definitions
Sec. 7.7-4. Applicability; Repeal of Previous Ordinances
Sec. 7.7-5. Authority for Development Impact Fees
Sec. 7.7-6. Administration of Development Impact Fees
Sec. 7.7-7. Land Use Assumptions
Sec. 7.7-8. Infrastructure Improvement Plan
Sec. 7.7-9. Adoption and Modification Procedures
Sec. 7.7-10. Five-year validity of the Infrastructure Improvements Plan and the Land Use Assumptions
Sec. 7.7-11. Collection of Development Impact Fees
Sec. 7.7-12. Development Impact Fee Credits and Credit Agreements
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Sec. 7.7-14. Appeals
Sec. 7.7-15. Refunds of Development Impact Fees
Sec. 7.7-16. Oversight of Development Impact Fee Program

Sec. 7.7-1. - Title.

This Article shall be known as the "2014 Development Impact Fee Ordinance of the Town of Queen Creek," and may be cited as such.

Sec. 7.7-2. - Legislative intent and purpose.

This Article is adopted for the purpose of promoting the health, safety and general welfare of the residents of the Town by:

A. 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.

B. Setting forth standards and procedures for creating and assessing development impact fees consistent with the requirements of Arizona Revised Statutes ("A.R.S.") § 9-463.05, including requirements pursuant to A.R.S. § 9-463.05, Subsection K that, on or before August 1, 2014, the Town replace its development impact fees that were adopted prior to January 1, 2012 with development impact fees adopted pursuant to the requirements of A.R.S. § 9-463.05 as amended by the state legislature in SB 1525, Fiftieth Legislature, First Regular Session.

C. Providing for the temporary continuation of certain development impact fees adopted prior to January 1, 2012 until otherwise replaced pursuant to this Article, or longer where such development impact fees were pledged to support Financing or Debt for a Grandfathered Facility as permitted by A.R.S. § 9-463.05, Subsections K, R, and S.

[1]Ordinance 372-06 and amended by 373-06; 547-14

D. Setting forth procedures for administering the development impact fee program, including mandatory offsets, Credits, and refunds of development impact fees. All development impact fee assessments, offsets, Credits, or refunds must be administered in accordance with the provisions of this Article.

This Article shall not affect the Town's zoning authority or its authority to adopt or amend its General Plan, provided that planning and zoning activities by the Town may require amendments to development impact fees as provided in Section 7.7-7 of this Article.

Sec. 7.7-3. Definitions.

When used in this Article, the terms listed below shall have the following meanings unless the context requires otherwise. 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. Such 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: A category of Necessary Public Services for which the Town is authorized to assess development impact fees, as further defined in Section 7.7-8(A)(1) of this Article.

Category of Development: A specific category of residential, commercial, or industrial development against which a development impact fee is calculated and assessed. The Town assesses development impact fees against the following categories of development: Industrial, Commercial, Office/Other Services, and Residential categories.

Commercial Land Use: Retail business and service establishment, professional and governmental offices, and developed recreational uses.

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 pursuant to Section 7.7-12 of this Article (or as otherwise permitted by this Article).

Credit Agreement: A written agreement between the Town and the developer(s) of Subject Development that allocates Credits to the Subject Development pursuant to Section 7.7-12 of this Article. A Credit Agreement may be included as part of a Development Agreement pursuant to Section 7.7-13 of this Article.

Credit Allocation: A term used to describe when Credits are distributed to a particular development or parcel of land after execution of a Credit Agreement, but are not yet issued.

Credit Issuance: A term used to describe when the amount of an assessed development impact fee attributable to a particular development or parcel of land is reduced by applying a Credit allocation.

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 Section 7.7-13 of this Article, Section 9-500.05, Arizona Revised Statutes, and any applicable requirements of the Town Code.

Direct Benefit: A benefit to an a Service Unit (as described below), resulting from a Capital Facility that: (a) addresses the need for a Necessary Public Service created in whole or in part by the Service Unit; and that (b) meets either of the following criteria: (i) the Capital Facility is located in the immediate area of the Service Unit and is needed in the immediate area of the Service Unit to maintain the Level of Service; or (ii) the Capital Facility substitutes for, or eliminates the need for a Capital Facility that would have otherwise have been needed in the immediate area of the Service Unit to maintain the Town's Level of Service.

Dwelling Unit: A house, apartment, mobile home or trailer, group of rooms, or single room occupied as separate living quarters or, if vacant, intended for occupancy as separate living quarters.

Equipment: Machinery, tools, materials, and other supplies, not including vehicles, that are needed by a Capital Facility to provide the Level of Service specified by the Infrastructure Improvement Plan, 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,

[1]Ordinance 372-06 and amended by 373-06; 547-14

aquariums, Aquatic Centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand 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 for the Town pursuant to Section 7.7-9 of this Article 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 Plan-Based Cost per Service Units calculated in the Infrastructure Improvements Plan, and which meets other requirements set forth in A.R.S. § Section 9-463.05.

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 Protection: A Category of Necessary Public Services that includes fire stations, fire Equipment, fire Vehicles and all Appurtenances for fire stations. Fire Protection does not include Vehicles or Equipment used to provide administrative services, or helicopters or airplanes. Fire Protection does not include any facility that is used for training firefighters from more than one station or substation.

Grandfathered Facilities: Capital Facilities provided through Financing or Debt incurred before June 1, 2011 for which a development impact fee has been Pledged towards repayment as described in Section 7.7-5(C) of this Article.

General Plan: The comprehensive plan for development of the Town establishing areas of the Town for different purposes, zones and activities, adopted pursuant to Arizona Revised Statutes Title 9, Article 4, Article 6, as amended, including specific area plans, if any, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

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: Storage, processing, and shipping of agricultural or timber products; minerals extraction and production, storage, processing, shipping or conversion to energy; fabrication, assembly, servicing, manufacture, storage or warehousing of other products.

Infrastructure Improvements Plan: A document or series of documents that meet the requirements set forth in A.R.S. § 9-463.05, including those adopted pursuant to Section 7.7-9 of this Article to cover any Category or combination of Categories of Necessary Public Services.

Interim Fee Schedule: Any development impact fee schedule established prior to January 1, 2012 in accordance with then-applicable law, and which shall expire not later than August 1, 2014 pursuant to Section 7.7-11 of this Article.

Land Use Assumptions: Projections of changes in land uses, densities, intensities and population for the Town over a period of at least ten years as specified in Section 7.7-7 of this Article.

Level of Service: A quantitative and/or qualitative measure of a Necessary Public Service that is to be provided by the Town to development in the Town, defined in terms of the relationship between service capacity and service demand, accessibility, response times, comfort or convenience of use, or other similar measures or combinations of measures. Level of Service may be measured differently for different Categories of Necessary Public Services, as identified in the applicable Infrastructure Improvements Plan.

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 providing a Direct Benefit to development. Libraries do not include Excluded Library Facilities, although a Library may contain, provide access to, or otherwise support an Excluded Library Facility.

Multi-Family Dwelling: A structure arranged, designed and intended to be the residence of more than one family, with each family having independent cooking and bathing facilities.

Necessary Public Services: "Necessary Public Services" shall have the meaning prescribed in A.R.S. 9-463.05, subsection T, paragraph 5.

Offset: An amount which is subtracted from the overall costs of providing Necessary Public Services to account for those capital components of infrastructure or associated debt that have been or will be paid for by a development through taxes, fees (except for development impact fees), and other revenue sources, as determined by the Town pursuant to Section 7.7-8 of this Article.

Parks and Recreational 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 park facilities larger than 30 acres where such facilities provide a Direct Benefit. Parks and Recreational Facilities do not include Excluded Park Facilities, although Parks and Recreational Facilities may contain, provide access to, or otherwise support an Excluded Park Facility.

Plan-Based Cost Per Service Units: The total future capital costs listed in the Infrastructure Improvements Plan for a Category of Necessary Public Services divided by the total new equivalent demand units projected in the Town for that Category of Necessary Public Services over the same time period.

Pledged: Where used with reference to a development impact fee, a development impact fee shall be considered "pledged" where it was identified by the Town as a source of payment or repayment for Financing or Debt that was identified as the source of financing for a Necessary Public Service for which a development impact fee was assessed pursuant to the then-applicable provisions of A.R.S. § 9-463.05.

[1]Ordinance 372-06 and amended by 373-06; 547-14

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.

Private School: An institution of learning offering education for children which charges students tuition, including some or all of the grades from kindergarten through 12th grade. The site may contain athletic, dining, assembly and recreation facilities.

Public School: Elementary schools, middle schools, high schools, accommodation schools, accommodation schools and charter schools, which are owned and operated by a school district pursuant to Arizona Revised Statutes, Title 15.

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 of Arizona; (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: Includes single and multi-family dwellings, hotels, motels, dormitories, and mobile homes.

Service Area: The Town has only one Service Area, which encompasses all of the land with the Towns corporate boundaries, as they may be expanded or otherwise amended.

Service Unit: A unit of development within a particular Category of Development, defined in terms of a standardized measure of the demand that a unit of development in that Category of Development generates for Necessary Public Services in relation to the demand generated by a detached single-family Dwelling Unit. For all Categories of Necessary Public Services, the Service Unit factor for a detached single-family Dwelling Unit is one (1), while the Service Units factor for a unit of development within another Category of Development is represented as a ratio of the demand for each Category of Necessary Public Services typically generated by that unit as compared to the demand for such services typically generated by a detached single-family Dwelling Unit.

Street Facilities: A Category of Necessary Public Services including arterial or collector streets or roads, traffic signals, rights-of-way, and improvements thereon, bridges, culverts, irrigation tiling, storm drains, and regional transportation facilities.

Storm Drainage: A Category of Necessary Public Services including but not limited to storm sewers constructed in sizes needed to provide for stormwater management for areas beyond major street projects and stormwater detention/retention basins, tanks,

pump stations and channels necessary to provide for proper stormwater management, including any appurtenances for those facilities.

Subject Development: A land area linked by a unified plan of development, which must be contiguous unless the land area is part of a development agreement executed in accordance with Section 7.7-13 of this Article.

Substantial Nexus: A substantial nexus exists where the demand for Necessary Public Services that will be generated by a Service Unit can be reasonably quantified in terms of the burden it will impose on the available capacity of existing Capital Facilities, the need it will create for new or expanded Capital Facilities, and/or the benefit to the development from those Capital Facilities.

Town: The Town of Queen Creek, 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.

Sec. 7.7-4. Applicability

A. Except as otherwise provided herein, from and after August 1, 2014, this Article shall apply to all new development within the Town, provided, however, that only the Street Development Fee shall be applied to public and private schools.

B. The provisions of this Article shall apply to all of the territory within the corporate limits of the Town.

C. The Town manager or his/her designee is authorized to make determinations regarding the application, administration and enforcement of the provisions of this Article.

Sec. 7.7-5. Authority for Development Impact Fees

A. *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 an Infrastructure Improvements Plan, Fee Report, development impact fee, and required reports or audits conducted pursuant to this Article. Development impact fees shall be subject to the following requirements:

1. The Town shall develop and adopt a Fee Report that analyzes and defines the development impact fees to be charged in the Town for each Capital Facility Category, based on the Infrastructure Improvements Plan and the Plan-Based Cost per Service Unit calculated pursuant to Section 7.7-8(A)(12) of this Article.

[1]Ordinance 372-06 and amended by 373-06; 547-14

2. Development impact fees shall be assessed against all new commercial, residential, and industrial developments, provided that the Town may assess different amounts of development impact fees against specific Categories of Development based on the actual burdens and costs that are associated with providing Necessary Public Services to that Category of Development. No development impact fee shall exceed the Plan-Based Cost per Service Unit for any Category of Development.

3. 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 may be assessed as identified in Section 7.7-8(A)(1) of this Article.

4. 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 Town. 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.

5. Development impact fees may not be used to pay the Town's administrative, maintenance, or other operating costs.

6. 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.

7. Except for any fees included on Interim Fee Schedule, all development impact fees charged by the Town must be included in a "Fee Schedule" prepared pursuant to this Article, included in the Fee Report, and adopted by the Town by resolution.

8. All development impact fees shall meet the requirements of A.R.S. § 9-463.05.

B. *Costs per* Service Units*.* 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, including all required Offsets, and shall recommend a development impact fee structure for adoption by the Town. The actual impact fees to be assessed shall be disclosed and adopted in the form of impact fee schedules.

C. *Carry-over of Previously-Established Development Impact Fees and Grandfathered Facilities.* Notwithstanding the requirements of this Article, certain development impact fees adopted by the Town prior to the effective date of this Article shall continue in effect as follows:

1. Until August 1, 2014 or the date a new development impact fee is adopted for the applicable Category of Necessary Public Services in the Town pursuant to this Article, whichever occurs first, development impact fees established prior to January 1, 2012 shall continue in full force and effect to the extent that the development impact fee is used to provide a Category of Necessary Public Services that is authorized by Section 7.7-8 of this Article. Development impact fees collected prior to January 1, 2012, shall be expended on Capital Facilities within the same Category of Necessary Public Services for which they were collected.

2. The Town may continue to collect and use any development impact fee established before January 1, 2012, even if the development impact fee would not otherwise be permitted to be collected and spent pursuant to A.R.S. § 9-463.05, as amended by the state legislature in Senate Bill 1525, Fiftieth Legislature, First Regular Session, if either of the following apply:

   a. Both of the following conditions are met:

      i. Prior to June 1, 2011, the development impact fee was pledged towards the repayment of Financing or Debt incurred by the Town to provide a Capital Facility.

      ii. The applicable Capital Facility was included in the Town's Infrastructure Improvements Plan, or other Town planning document prepared pursuant to applicable law, prior to June 1, 2011.

   b. Before August 1, 2014, the Town uses the development impact fee to finance a Capital Facility in accordance with A.R.S. § 9-463.05, Subsection (S).

3. Defined terms in any previously established fee schedule shall be interpreted according to the ordinance in effect at the time of their adoption.

Sec. 7.7-6. Administration of Development Impact Fees

A. *Separate Accounts.* Development impact fees collected pursuant to this Article shall be placed in separate, interest-bearing accounts for each Capital Facility category.

B. *Limitations on Use of Fees.* Development impact fees and any interest thereon collected pursuant to this Article shall be spent to provide Capital Facilities associated with the same Category of Necessary Public Services, including costs of Financing or Debt used by the Town to finance such Capital Facilities and other costs authorized by this Article that are included in the Infrastructure Improvements Plan.

C. *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.

[1]Ordinance 372-06 and amended by 373-06; 547-14

Sec. 7.7-7. Land Use Assumptions

The Infrastructure Improvements Plan shall be consistent with the Town's current Land Use Assumptions for the Town and each Category of Necessary Public Services as adopted by the Town pursuant to A.R.S. § 463.05.

A. *Reviewing the Land Use Assumptions.* 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 conform with the General Plan.

B. *Evaluating Necessary Changes.* If the Land Use Assumptions upon which an Infrastructure Improvements Plan is based have not been updated within the last five years, the Town shall evaluate the Land Use Assumptions to determine whether changes are necessary. If, after general evaluation, the Town determines that the Land Use Assumptions are still valid, the Town shall issue the report required in Section 7.7-10 of this Chapter.

C. *Required Modifications to Land Use Assumptions.* If the Town determines that changes to the Land Use Assumptions are necessary in order to adopt or amend an Infrastructure Improvements Plan, it shall make such changes as necessary to the Land Use Assumptions prior to or in conjunction with the review and approval of the Infrastructure Improvements Plan pursuant to Section 7.7-10 of this Chapter.

Sec. 7.7-8. Infrastructure Improvements Plan

A. *Infrastructure Improvements Plan Contents*. 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, which may include any or all of the following:

    a. Stormwater, Drainage, and Flood Control
    b. Libraries
    c. Street Facilities
    d. Fire Protection
    e. Police
    f. Parks

2. Define and provide a map of the Service Area that demonstrates a Substantial Nexus between the Capital Facilities to be provided in the Service Area and the Service Units to be served by those Capital Facilities. For Libraries and for Parks larger than 30 acres, the Service Area must be defined in a manner that demonstrates a Direct Benefit between the Capital Facilities and the Service Units to be served by those Capital Facilities. The Town may cover more than one category of Capital Facilities in the same Service Area provided that there is an independent

Substantial Nexus or Direct Benefit, as applicable, between each Category of Necessary Public Services and the Service Units to be served.

3. Identify and describe the Land Use Assumptions upon which the Infrastructure Improvements Plan is based.

4. Analyze and identify the existing Level of Service provided by the Town to existing Service Units for each Category of Necessary Public Services.

5. Identify the Level of Service to be provided by the Town for each Category of Necessary Public Services based on the relevant Land Use Assumptions and any established Town standards or policies related to required Levels of Service.

6. For each Category of Necessary Public Services, analyze and identify the existing capacity of the Capital Facilities in each Service Area, the utilization of those Capital Facilities by existing Service Units, and the available excess capacity of those Capital Facilities to serve new Service Units including any existing or planned commitments or agreements for the usage of such capacity. The Infrastructure Improvements Plan shall additionally identify any changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing Service Units, or to meet new safety, efficiency, environmental, or other regulatory requirements for services provided to existing Service Units.

7. Identify any Grandfathered Facilities and the impact thereof on the need for Necessary Public Services in each affected Service Area.

8. Estimate the total number of existing and future Service Units based on the Town's Land Use Assumptions and projected new Service Units.

9. Based on the analysis in paragraphs (3)-(6) above, provide a summary table or tables describing the Level of Service for each Category of Necessary Public Services by relating the required Capital Facilities to Service Units in the Service Area, and identifying the applicable Service Units factor associated with each Category of Development.

10. For each Category of Necessary Public Services, analyze and identify the projected utilization of any available excess capacity in existing Capital Facilities, and all new or expanded Capital Facilities that will be required to provide and maintain the planned Level of Service, as a result of the new projected Service Units, for a period not to exceed ten years. Nothing in this Subsection 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 Plan-Based Cost per Service Unit.

[1]Ordinance 372-06 and amended by 373-06; 547-14

11. For each Category of Necessary Public Services, estimate the total cost of any available excess capacity and/or new or expanded Capital Facilities that will be required to serve new Service Units, including costs of land acquisition, improvements, engineering and architectural services, studies leading to design, design, construction, financing, and administrative costs, as well as projected costs of inflation. Such total costs shall not include costs for ongoing operation and maintenance of Capital Facilities, nor for replacement of Capital Facilities to the extent that such replacement is necessary to serve existing Service Units. If the Infrastructure Improvements Plan includes changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing Service Units, or to meet new regulatory requirements for services provided to existing Service Units, such costs shall be identified and distinguished in the Infrastructure Improvements Plan.

12. 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. The Infrastructure Improvements Plan shall additionally estimate the time required to finance, construct and implement the new or expanded Capital Facilities.

13. Calculate required Offsets by

    a. Setting aside a portion of the Town's construction sales tax to be used exclusively for the capital costs of necessary public services (the "Excess Portion").

    b. Calculating the Excess Portion, which shall be the portion of any construction contracting, or similar excise tax rate that exceeds the percentage amount of the transaction privilege tax rate that is imposed on the majority of other transaction privilege tax classifications in the Town.

    c. Depositing the Excess Portion into a separate fund, the proceeds of which shall be used only for the capital cost of necessary public services.

    d. Taking into account the reserved amounts when calculating development fees.

14. Calculate the Plan-Based Cost per Service Unit by dividing the total projected costs to provide Capital Facilities to new Service Units for each Category of Necessary Public Services as determined pursuant to Subsection (9) of this Section into the number of new Service Units projected over a period not to exceed ten years, considering the specific

Service Units factor(s) associated with such Service Units for each Category of Necessary Public Services and taking into account the reserved amounts calculated pursuant to Subsection 13 of this Section.

B. *Multiple Plans.* An Infrastructure Improvements Plan adopted pursuant to this Subsection may address one or more of the Town's Categories of Necessary Public Services in the Town's Service Area. Each Capital Facility shall be subject to no more than one Infrastructure Improvements Plan at any given time.

C. *Reserved Capacity.* The Town may reserve capacity in an Infrastructure Improvements Plan to serve one or more planned future developments, including capacity reserved through a Development Agreement pursuant to Section 7.7-13 of this Article. All reservations of existing capacity must be disclosed in the Infrastructure Improvements Plan at the time it is adopted.

Sec. 7.7-9. Adoption and Modification Procedures

A. *Adopting or Amending the Infrastructure Improvements Plan.* The Infrastructure Improvements Plan shall be adopted or amended subject to the following procedures:

1. *Major Amendments to the Infrastructure Improvements Plan.* Except as provided in paragraph 2 of this Subsection, the adoption or amendment of an Infrastructure Improvement Plan shall occur at one or more public hearings according to the following schedule, and may occur concurrently with the adoption of an update of the Town's Land Use Assumptions as provided in Section 7.7-7 of this Article:

   a. Sixty days before the first 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 Plan-Based Cost per Service Units.

   b. The Town shall conduct a public hearing on the Infrastructure Improvements Plan and underlying Land Use Assumptions at least 30 days, but no more than 60 days, before approving or disapproving the Infrastructure Improvements Plan.

2. *Minor Amendments to the Infrastructure Improvements Plan.* Notwithstanding the other requirements of this Section, 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]Ordinance 372-06 and amended by 373-06; 547-14

a. 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.

b. 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.

c. 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 Subsection, have caused a development impact fee in any Service Area to have been increased by more than five per cent above the development impact fee that is provided in the current development impact fee schedule.

d. 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.

B. *Amendments to the Fee Report.* Any adoption or amendment of a Fee Report and fee schedule shall occur at one or more public hearings according to the following schedule:

1. The first public hearing on the Fee Report must be held at least 30 days after the adoption or approval of and Infrastructure Improvements Plan as provided in subsection A of this Section. 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 or disapproval of the Infrastructure Improvements Plan.

2. The Town shall make the Infrastructure Improvements Plan and underlying Land Use Assumptions available to the public on the Town's website 30 days prior to the public hearing described in Paragraph (1) of this Subsection.

3. The Fee Report may be adopted by the Town no sooner than 30 days, and no later than 60 days, after the hearing described in Paragraph (1) of this Subsection.

4. The development fee schedules in the Fee Report adopted pursuant to this subsection shall become effective 75 days after adoption of the Fee Report by the Town.

Sec. 7.7-10. Timing for the Renewal and Updating of the Infrastructure Improvements Plan and the Land Use Assumptions

A. *Renewing the Infrastructure Improvements Plan.* Except as provided in Subsection B of this Section, not later than every five years the Town shall update the applicable Infrastructure Improvements Plan and Fee Report related to each Category of Necessary Public Services pursuant to Section 7.7-9 of this Article. Such five-year period shall be calculated from the date of the adoption of the Infrastructure Improvements Plan or the date of the adoption of the Fee Report, whichever occurs later.

B. *Determination of No Changes.* Notwithstanding Subsection (A) of this Section, 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:

1. Notice of the determination shall be published at least 180 days prior to the end of the five-year period described in Subsection A of this Section.

2. The notice shall identify the Infrastructure Improvements Plan and Fee Report that shall continue in force without amendment.

3. The notice shall provide a map and description of the Service Area(s) covered by such Infrastructure Improvements Plan and Fee Report.

4. 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.

C. *Response to Comments.* The Town shall consider and respond within 30 days to any timely requests submitted pursuant to Paragraph 4 of Subsection (B) of this Section.

Sec. 7.7-11. Collection of Development Impact Fees

A. *Collection*. Development impact fees, together with administrative charges assessed pursuant to Paragraph (A)(6) of this Section, shall be calculated and collected prior to issuance of permission to commence development; specifically:

1. Unless otherwise specified pursuant to a Development Agreement adopted pursuant to Section 7.7-13 of this Article, development impact fees shall be paid prior to issuance of a building permit according to the current development impact fee schedule for the Town, as adopted pursuant to this Article, or according to any other development impact fee schedule as authorized in this Article.

[1]Ordinance 372-06 and amended by 373-06; 547-14

2. 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.

3. 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.

5. 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 non-residential 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.

6. For issued permits that expire or are voided, development impact fees and administrative charges shall be as follows:

   a. If the original permittee is seeking to renew an expired or voided permit, and the development impact fees paid for such 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.

   b. 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.

B. *Exceptions*. Development impact fees shall not be owed under either of the following conditions:

1. 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.

2. The approval(s) that trigger the collection of development impact fees involve modifications to existing residential or non-residential development that do not: (a) add new Service Units, (b) increase the impact of existing Service Units on existing or future Capital Facilities, or (c) change the land-use type of the existing development to a different category of development for which a higher development impact fee would have been due. To the extent that any modification does not meet

the requirements of this paragraph, the development impact fee due shall be the difference between the development impact fee that was or would have been due on the existing development and the development impact fee that is due on the development as modified.

C. *Temporary Exemptions from Development Impact Fee Schedules.* 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:

1. Residential 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.

2. Commercial, Industrial and Multifamily Uses. On or after the day that the final approval, as defined in A.R.S. 9-463.05(T)(4), is issued for a commercial, industrial or multifamily development, the Town shall provide 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.

3. Other Development. Any Category of Development not covered under paragraphs 1 and 2 of this Subsection shall pay development impact fees according to the fee schedule that is current at the time of collection as specified in Subsection (A) of this Section.

4. Changes to Site Plans and Subdivision Plats. Notwithstanding the other requirements of this Subsection, 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. 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.

D. *Option to Pursue Special Fee Determination.* Where a development is of a type that does not closely fit within a particular Category of Development appearing on an adopted development impact fee schedule, or where a development has

[1]Ordinance 372-06 and amended by 373-06; 547-14

unique characteristics such that the actual burdens and costs associated with providing Necessary Public Services to that development will differ substantially from that associated with other developments in a specified Category of Development, the Town may require the Applicant to provide the Town Director of Development Services or authorized designee with an alternative development impact fee analysis. Based on a projection of the actual burdens and costs that will be associated with the development, the alternative development impact fee analysis may propose a unique fee for the development based on the application of an appropriate Service Unit factor to the applicable Plan-Based Cost per Service Unit, or may propose that the development be covered under the development impact fee schedule governing a different and more analogous Category of Development. The Director of Development Services or authorized designee shall review the alternative impact fee analysis and shall make a determination as to the development impact fee to be charged. Such decision shall be appealable pursuant to Section 7.7-14 of this Article. The Director or authorized designee may require the Applicant to pay an administrative fee to cover the actual costs of reviewing the special fee determination application.

Sec. 7.7-12. Development Impact Fee Credits and Credit Agreements

A. *Eligibility of Capital Facility*. All development impact fee Credits must meet the following requirements:

1. One of the following is true:

   a. The Capital Facility, or the financial contribution toward a 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

   b. 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.

2. Credits shall not be available for any infrastructure provided by a developer if the cost of such 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 for any contribution, payment, construction, or dedication from any Town funding source including an agreement to reimburse the developer with future collected development impact fees pursuant to Section 7.7-13 of this Article, any Credits claimed by the developer shall be: (a) deducted from

any amounts to be paid or reimbursed by the Town; or (b) reduced by the amount of such payment or reimbursement.

B. *Calculation of Credits*. Credits 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 Plan-Based Cost per Service Unit, the amount of any Credit shall be reduced in proportion to the difference between the Plan-Based Cost per SU and the Gross Impact Fee adopted. A Credit shall not exceed the actual costs the Applicant incurred in providing the eligible Capital Facility.

C. *Allocation of Credits*. Before any Credit can be issued to a Subject Development (or portion thereof), the Credit must be allocated to that development as follows:

1. The Developer and the Town must execute a Credit Agreement including all of the following:

   a. The total amount of the Credits resulting from provision of an eligible Capital Facility.

   b. The estimated number of Service Units to be served within the Subject Development.

   c. The method by which the Credit values will be distributed within the Subject Development.

2. It is the responsibility of the developer to request allocation of development impact fee Credits through an application for a Credit Agreement (which may be part of a Development Agreement entered into pursuant to Section 7.7-13 of this Article).

3. If a building permit is issued or a water/sewer connection is purchased, and a development impact fee is paid prior to execution of a Credit Agreement for the Subject Development, no Credits may be allocated retroactively to that permit or connection. Credits may be allocated to any remaining permits for the Subject Development in accordance with this Article.

4. If the entity that provides an eligible Capital Facility sells or relinquishes a development (or portion thereof) that it owns or controls prior to execution of a Credit Agreement or Development Agreement, Credits resulting from the eligible Capital Facility will only be allocated to the development if the entity legally assigns such rights and responsibilities to its successor(s) in interest for the Subject Development.

5. If multiple entities jointly provide an eligible Capital Facility, both entities must enter into a single Credit Agreement with the Town, and any request for the allocation of Credit within the Subject Development(s) must be made jointly by the entities that provided the eligible Capital Facility.

[1]Ordinance 372-06 and amended by 373-06; 547-14

6. Credits may only be reallocated from or within a Subject Development with the Town's approval of an amendment to an executed Credit Agreement, subject to the following conditions:

   a. The entity that executed the original agreement with the Town, or its legal successor in interest and the entity that currently controls the Subject Development are parties to the request for reallocation.

   b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.

7. A Credit Agreement may authorize the allocation of Credits to a non-contiguous parcel only if all of the following conditions are met:

   a. The entity that executed the original agreement with the Town or its legal successor in interest, the entity that currently controls the Subject Development, and the entity that controls the non-contiguous parcel are parties to the request for reallocation.

   b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.

   c. The non-contiguous parcel is in the same Service Area as that served by the eligible Capital Facility.

   d. The non-contiguous parcel receives a Necessary Public Service from the eligible Capital Facility.

   e. The Credit Agreement specifically states the value of the Credits to be allocated to each parcel and/or Service Unit, or establishes a mechanism for future determination of the Credit values.

   f. The Credit Agreement does not involve the transfer of Credits to or from any property subject to a Development Agreement.

D. *Credit Agreement*. Credits shall only be issued pursuant to a Credit Agreement executed in accordance with Subsection C of this Section. The Town Manager or Authorized Designee is authorized by this Article to enter into a Credit Agreement with the controlling entity of a Subject Development, subject to the following:

1. The Developer requesting the Credit Agreement shall provide all information requested by the Town to allow it to determine the value of the Credit to be applied.

2. An application for a Credit Agreement shall be submitted to the Town by the Developer within one year of the date on which ownership or control of the Capital Facility passes to the Town.

3. The Developer shall submit a draft Credit Agreement to the Town Manager or authorized designee(s) for review in the form provided to the

Applicant by the Town. The draft Credit Agreement shall include, at a minimum, all of the following information and supporting documentation:

a. A legal description and map depicting the location of the Subject Development for which Credit is being applied. The map shall depict the location of the Capital Facilities that have been or will be provided.

b. An estimate of the total Service Units that will be developed within the Subject Development depicted on the map and described in the legal description.

c. A list of the Capital Facilities associated physical attributes, and the related costs as stated in the Infrastructure Improvements Plan.

d. Documentation showing the date(s) of acceptance by the Town, if the Capital Facilities have already been provided.

e. The total amount of Credit to be applied within the Subject Development and the calculations leading to the total amount of Credit.

f. The Credit amount to be applied to each Service Unit within the Subject Development for each Category of Necessary Public Services.

4. The Town's determination of the Credit to be allocated is final.

5. Upon execution of the Credit Agreement by the Town and the Applicant, Credits shall be deemed allocated to the Subject Development.

6. Any amendment to a previously approved Credit Agreement must be initiated within two years of the Town's final acceptance of the eligible Capital Facility for which the amendment is requested.

7. Any Credit Agreement approved as part of a Development Agreement shall be amended in accordance with the terms of the Development Agreement and Section 7.7-13 of this Article.

F. *Issuance of Credits*. Credits allocated pursuant to Subsection (D) of this Section may be issued and applied toward the Gross Impact Fees due from a development, subject to the following conditions:

1. 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.

2. Credits shall only be issued when the eligible Capital Facility from which the Credits were derived has been accepted by the Town or when

[1]Ordinance 372-06 and amended by 373-06; 547-14

adequate security for the completion of the eligible Capital Facility has been provided in accordance with all terms of an executed Development Agreement.

3. Where Credits have been issued pursuant to paragraph (2) of this Subsection, an impact fee due at the time a building permit is issued shall be reduced by the Credit amount stated in or calculated from the executed Credit Agreement. Where Credits have not yet been issued, the Gross Impact Fee shall be paid in full, and a refund of the Credit amount shall be due when the Developer demonstrates compliance with Paragraph (2) of this Subsection in a written request to the Town.

4. 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 Section 7.7-15(A)(2)(a) of this Article.

5. Notwithstanding the other provisions of this Section 7.7-12, Credits issued prior to January 1, 2012 may only be used for the Subject Development for which they were issued. Such Credits may be transferred to a new owner of all or part of the Subject Development in proportion to the percentage of ownership in the Subject Development to be held by the new owner.

Sec. 7.7-13. 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:

A. *Development Agreement Required.* A Development Agreement is required to authorize any of the following:

1. To issue Credits prior to the Town's acceptance of an eligible Capital Facility.

2. To allocate Credits to a parcel that is not contiguous with the Subject Development and that does not meet the requirements of Subparagraph (D)(7) of Section 7.7-12 of this Article.

3. To reimburse the developer of an eligible Capital Facility using funds from development impact fee accounts.

4. To allocate different Credit amounts per Service Unit to different parcels within a Subject Development.

5. For a single family residential Dwelling Unit, to allow development impact fees to be paid at a later time than the issuance of a building permit as provided in this Section.

B. *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. Except where specifically modified by this Section, all provisions of Section 7.7-12 of this Article shall apply to any Credit Agreement that is authorized as part of a Development Agreement.

C. *Early Credit Issuance.* A Development Agreement may authorize the issuance of Credits prior to acceptance of an eligible Capital Facility by the Town when the Development Agreement specifically states the form and value of the security (i.e. bond, letter of Credit, etc.) 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.

D. *Non-Contiguous Credit Allocation.* A Development Agreement may authorize the allocation of Credits to a non-contiguous parcel only if all of the following conditions are met:

1. The non-contiguous parcel is in the same Service Area as that served by the eligible Capital Facility.

2. The non-contiguous parcel receives a Necessary Public Service from the eligible Capital Facility.

3. The Development Agreement specifically states the value of the Credits to be allocated to each parcel and/or Service Units, or establishes a mechanism for future determination of the Credit values.

E. *Uneven Credit Allocation.* The Development Agreement must specify how Credits will be allocated amongst different parcels on a per- Service Units basis, if the Credits are not to be allocated evenly. If the Development Agreement is silent on this topic, all Credits will be allocated evenly amongst all parcels on a per- Service Units basis.

F. *Use of Reimbursements.* 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.*

G. *Deferral of Fees.* A Development Agreement may provide for the deferral of payment of development impact fees for a residential development beyond 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.

H. *Waiver of 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.

[1]Ordinance 372-06 and amended by 373-06; 547-14

I. *No Obligation.* Nothing in this Section obligates the Town to enter into any Development Agreement or to authorize any type of Credit Agreement permitted by this Section.

Sec. 7.7-14. Appeals

A development impact fee determination by Town staff may be appealed in accordance with the following procedures:

A. *Limited Scope.* An appeal shall be limited to disputes regarding the calculation of the development impact fees for a specific development and/or permit and calculation of Service Units for the development.

B. *Form of Appeal.* An appeal shall be initiated on such written form as the Town may prescribe, and submitted to the Director of the Development Services Department.

C. *Department Action.* The Director of Development Services shall act upon the appeal within 30 calendar days of the filing of the appeal with the Development Services Department, and the Applicant shall be notified of the Director's decision in writing.

D. *Appeal to Town Manager.* The Applicant may further appeal the decision of the Director of Development Services to the Town Manager, within 14 calendar days of the Director's decision pursuant to Sec. 7.7-14.C. The Town Manager may designate the Assistant Town Manager to hear such appeals.

E. The Town Manager or authorized designee shall act upon the appeal within 14 calendar days of receipt of the appeal, and the Applicant shall be notified of the decision in writing.

F. *Final Decision.* The decision of the Town Manager (or Assistant Town Manager) is final.

G. *Fees During Pendency.* Building permits may be issued during the pendency of an appeal if the Applicant (1) pays the full impact fee calculated by the Town at the time the appeal is filed or (2) 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 Manager or authorized designee, and the Applicant has provided the Town with financial assurances as set forth in clause (2) above, the Applicant shall deliver the full amount of the impact fee to the Town within ten days of the Town Manager or designee's final decision on the appeal. If the Applicant fails to deliver the full amount of the impact fees when required by this Subsection, 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.

Sec. 7.7-15. Refunds of Development Impact Fees

A. *Refunds.* 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:

1. 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

2. 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:

   a. 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.

   b. 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.

   c. 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.

   d. 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.

   e. 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 such event, the current owner of the subject real property shall, upon request as set forth in this Section A, be entitled to a refund for the difference between the amounts of the development impact fee charged for and attributable to such construction cost and the amount the development impact fee would have been calculated to be if the

[1]Ordinance 372-06 and amended by 373-06; 547-14

actual construction cost had been included in the Fee Report. The refund contemplated by this Subsection 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.

B. *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.

C. *Refund to Government.* If a development impact fee was paid by a governmental entity, any refund shall be paid to that governmental entity.

Sec. 7.7-16. Oversight of Development Impact Fee Program

A. *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, Subsections N and O, as amended.

B. *Biennial Audit.* In addition to the Annual Report described in Subsection A of this Section, the Town shall provide for a biennial, certified audit of the Town's Land Use Assumptions, Infrastructure Improvements Plan and development impact fees.

1. An audit pursuant to this Subsection 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.

2. 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.

3. 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.

4. 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.

5. For purposes of this Section a certified audit shall mean any audit authenticated by one or more of the Qualified Professionals conducting the audit pursuant to paragraph (1) of this Subsection.

BUILDINGS AND BUILDING REGULATIONS

ARTICLE 7-8 FIREPLACE REGULATIONS[1]

7-8-1 Definitions
7-8-2 Installation Restrictions
7-8-3 Fireplace or Woodstove Alterations Prohibited
7-8-4 Permits Required
7-8-5 Exemptions

Section 7-8-1 Definitions

For the purposes of this Article, the following words and terms shall be defined as follows:

A. "Fireplace" means a built-in-place hearth and fire chamber or a factory-built appliance, designed to burn solid fuel or to accommodate gas or electric log insert or similar device, and which is intended for occasional recreational or aesthetic use, not for cooking, heating, or industrial processes.

B. "Solid fuel" includes but is not limited to wood, coal or other nongaseous or nonliquid fuels, including those fuels defined by the Maricopa County Air Pollution Control Office as "inappropriate fuel" to burn in residential woodburning devices.

C. "Woodstove" means a solid-fuel burning heating appliance including a pellet stove, which is either freestanding or designed to be inserted into a fireplace.

Section 7-8-2 Installation Restrictions

No person, firm or corporation shall construct or install a fireplace or a woodstove, and the building official shall not approve or issue a permit to construct or install a fireplace or a woodstove, unless the fireplace or woodstove complies with one of the following:

A. A fireplace which has a permanently installed gas or electric log insert.

B. A fireplace, woodstove or other solid-fuel burning appliance which has been certified by the United States Environmental Protection Agency as conforming to 40 Code of Federal Regulations Part 60, Subpart AAA as in effect on July 1, 1990.

C. A fireplace, woodstove or other solid-fuel burning appliance which has been tested and listed by a nationally recognized testing agency to meet performance standards equivalent to those adopted by 40 Code of Federal Regulations Part 60, Subpart AAA as in effect on July 1, 1990.

D. A fireplace, woodstove or other solid-fuel burning appliance which has been determined by the Maricopa County Air Pollution Control Office to meet performance standards equivalent to those adopted by 40 Code of Federal Regulations Part 60, Subpart AAA as in effect on July 1, 1990.

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[1]Ordinance 157-99

[1]Ordinance 372-06 and amended by 373-06; 547-14

E. A fireplace which has permanently installed woodstove insert which complies with subsections B, C or D above.

Section 7-8-3 Fireplace or Woodstove Alterations Prohibited

A. No person, firm or corporation shall alter or remove a gas or electric log insert or a woodstove insert from a fireplace for purposes of converting the fireplace to directly burn wood or other solid fuel.

B. No person, firm or corporation shall alter a fireplace, woodstove or other solid-fuel burning appliance in any manner that would void its certification or operational compliance with the provisions of this Article.

Section 7-8-4 Permits Required

In addition to the provisions and restrictions of this Article, construction, installation or alteration of all fireplaces, woodstoves and other gas, electric or solid-fuel burning appliances and equipment shall be done in compliance with provisions of the Construction Code and shall be subject to the permits and inspections required by the Construction Code.

Section 7-8-5 Exemptions

The following installations are not regulated by this Article and are not prohibited by this Article:

A. Furnaces, boilers, incinerators, kilns and other similar space heating or industrial process equipment.

B. Cookstoves, barbecue grills and similar appliances designed primarily for cooking.

C. Fire pits, barbecue grills, and other outdoor fireplaces.

ARTICLE 7-9 PAVEMENT CUT REQUIREMENTS[1]

7-9-1 General
7-9-2 Permit Requirements
7-9-3 Cash Bond Requirements
7-9-4 Backfill and Pavement Replacement
7-9-5 Inspection
7-9-6 Unauthorized Pavement Cuts

Section 7-9-1 General

It is the Town's desire to require all utility crossings to be bored. If the Town Engineer approves an application for a street cut, the procedures outlined in this ordinance shall apply. Street cuts will generally not be approved unless they meet the following conditions:

A. Major street maintenance or improvements to the road are scheduled within the next two years;

B. The road was constructed, resurfaced or surface treated at least three (3) years ago;

C. The road is in poor structural condition and has been approved for open cuts by the Town Engineer;

D. There is no feasible alternative to cutting the street.

Section 7-9-2 Permit Requirements

The contractor directly responsible for the trench backfill and pavement replacement shall obtain and sign for the permit.

A. The applicant shall call Arizona Blue Stake to identify any potential conflicts.

B. The applicant shall submit the signed permit application, proof of liability insurance, two copies of detailed drawings and traffic control plans, and a certificate of quantities detailing and dimensioning the items being placed in the right-of-way.

C. A completion date will be indicated on the permit. The contractor shall notify the Town Engineer 48 hours prior to start of construction. The permit may place restrictions on the time of day that work can be performed.

D. Permit fees must be paid before the permit can be issued. In addition to processing and inspection fees specified in Chapter 7, Article 7-6 of the Town Code, pavement cuts require the deposit of a cash bond when the permit is issued.

Section 7-9-3 Cash Bond Requirements

[1]Ordinance 171-99

A cash bond shall be required for all permits issued for cuts on arterial or collector streets. The amount of the cash bond will be established by the Town based on $16.00 per square foot of pavement replacement plus $1000.00. The cash bond will have a maximum amount of $10,000.00. Separate cash bonds will be required for each utility requiring a street cut. Utility companies may be exempt from the cash bond if there is a franchise agreement in place that exempts these requirements.

The permit holder may recover the bond after completion and acceptance of the work. If the work is not completed by the time designated on the permit or is not acceptable, the Town will notify the permit holder in writing. After five working days of the receipt of the notice, the Town may complete or correct the work, and the permit holder will forfeit the bond.

Section 7-9-4 Backfill and Pavement Replacement

A. A Traffic Control Plan shall be submitted to the Town Engineer for approval at least 72 hours prior to initiating work in the right-of-way.

1. The pavement shall be removed such that the edge of the pavement cut is outside of the wheel path.

2. Backfill shall be in accordance with MAG Standard Detail 200, or as specified by the Town Engineer in the permit. Backfill shall begin immediately following completion of the utility work.

3. Following completion of backfill, the trench shall be steel-plated or temporarily patched and the street opened to traffic. A permanent patch shall be placed within three (3) working days.

4. The final pavement replacement shall be flush with the existing edges of the trench. The grade from one end of the trench to the other shall be smooth and straight with no more than one-quarter of an inch plus or minus deviation, but not both, measured in the direction of traffic flow.

5. Pavement replacement shall match the existing street. The permit may require an overlay if the existing pavement surface is less than one year old.

6. Where concrete slurry is used for backfill it shall be a one sack mix and paving may not begin until the moisture in the slurry has dissipated.

Section 7-9-5 Inspection

All work must be inspected and approved by the Town Engineer. The applicant shall guarantee all permitted work against defects in materials and quality for two years from the date it is accepted by the Engineering Department.

Section 7-9-6 Unauthorized Pavement Cuts

A permit to work in the right-of-way is not authorization to remove pavement, unless the street cut is specified in the permit. Street cuts made without prior approval are subject to having the entire street overlaid to a length specified by the Town Engineer at the contractor's expense.

ARTICLE 7-10 Penalty

Notwithstanding any provision of any building construction code adopted by reference herein, any person violating any provision of this chapter shall be guilty of a class one misdemeanor.

ARTICLE 7-11[1] Plan Review By Independent Public Service Providers

A. There is herby established an Independent Provider Fee (the "ISP" Fee), to be charged by the Town for the review of plans by Independent Service Providers.

B. The Council will by resolution establish, and may from time to time amend the amount of the ISP Fee (including any administrative fees to be retained by the Town to defray the Town's expenses to coordinate the plan review process and collect the fee.)

C. The ISP Fee established hereby shall be collected in the same manner and time as fees collected pursuant to Section 7-6 of the Town Code, and shall be transmitted (less an administrative fee to be retained by the Town to defray the Town's expenses to coordinate the plan review process and collect the fee) to the Independent Public Service Provider pursuant to the terms of an agreement approved by the Mayor and Common Council.

[1] **Ordinance 346-06**

CHAPTER 8 BUSINESS REGULATIONS

ARTICLE 8-1 BUSINESS LICENSE[1]

8-1-1 License Required
8-1-2 Application and Issuance
8-1-3 Term of Licenses
8-1-4 Number of Licenses
8-1-5 License to be Exhibited
8-1-6 Inspector of Licenses
8-1-7 Duties and Powers of Inspectors
8-1-8 Transfer of License
8-1-9 Prorating Prohibited
8-1-10 Business License Fees
8-1-11 Restrictions; Suspension; Revocation
8-1-12 Appeals

Section 8-1-1 License Required

A. It is unlawful for any person, whether as principal or agent, either personally or for another person, or for any corporation, or as a member of any firm or co-partnership, to commence, practice, transact or carry on any trade, calling, profession, occupation or business within the town limits without first having procured a license from the town to do so and without complying with all regulations of such trade, calling, profession, occupation or business as specified or required by the United States Government or the State of Arizona and its political subdivisions. No license shall be issued without proof by the applicant of such compliance and verification by the clerk that no violation of the town's zoning regulations will occur by such issuance.

B. The practicing or carrying on of any trade, calling, profession, occupation or business by any person, corporation or partnership without first having procured a license from the town to do so, or without complying with any and all regulations of such trade, calling, profession, occupation or business, as required by other law or by this article shall constitute a separate violation of this article for each and every day that such trade, calling, profession, occupation or business is practiced, carried on or conducted within the town.

C. Upon submission of valid proof the following individuals or groups may obtain from the town clerk a written exemption from the provisions of this chapter.

1. Non-profit educational institutions, fraternal and service clubs, bona fide religious organizations, and agencies of any federal, state or local governments.

2. Non-profit private clubs where a basic membership fee covers the cost of the use of facilities.

3. Fund raising projects of non-profit and bona fide religious organizations, not conducted on a regular basis.

[1]Ordinance 43-94

4. Special event permits issued at the direction of the council upon application by the organizers sponsoring the event.

Section 8-1-2 Application and Issuance[2]

A. It shall be the duty of the clerk upon receipt of a properly completed application for a business license and verification of the data contained thereon, to prepare and issue a license under this article for every person, corporation or partnership required to pay a license fee hereunder and to state in each license the amount charged for the same, the period of time covered thereby, the name of the person, corporation or partnership for whom issued and the trade, calling, profession, occupation or business licensed and the location or place of business where the trade, calling, profession, occupation or business is to be carried on, transacted or practiced.

B. It shall be the duty of the clerk upon receipt of a properly completed application for a liquor license and verification of the data contained thereon, to prepare and issue a license under this article for every person, corporation or partnership required to pay a license fee hereunder and to state in each license the amount charged for the same, the period of time covered thereby, the name of the person, corporation or partnership for whom issued and the location or place of business

C. In no case, shall any mistake made by the clerk in issuing any license or collecting the amount of fee for any license or the amount actually due from any person required to pay for a license as provided herein, prevent, prejudice or stop the town from collecting the correct amount of fee or charge for any license or the amount actually due from any person required to pay for a license as provided herein, or revoking any license erroneously issued and refunding the fee collected.

D. No greater or lesser amount of money shall be charged or received by the clerk for any license than is provided for in this article, and no license shall be issued for any period of time other than as provided herein.

E. All charges for a license required by this article shall be paid in advance and in lawful money of the United States of America at the office of the clerk.

Section 8-1-3 Term of Licenses

A. The renewal charge for annual licenses provided herein shall become due and payable on the anniversary date of the issuance of the license and every anniversary date thereafter, except that any new license charge shall become due and payable and be paid on or before the day of commencing to carry on, transact or practice the trade, calling, profession, occupation or business for which a license is required by this article.

B. The charge for quarterly licenses provided herein shall become due on the first day of each calendar quarter, for which required.

C. The charge for weekly licenses provided for in this article shall become due and payable and be paid on or before the first day of each week for which required.

D. The charge for daily licenses required by this article shall become due and payable and

be paid before each day for which required.

Section 8-1-4 Number of Licenses

A. A separate charge for a license shall be paid for each branch establishment or separate place of business in which any person, corporation or partnership shall carry on, transact or practice a trade, calling, profession, occupation or business.

B. When more than one trade, calling, profession, occupation or business is carried on, transacted or practiced by the same person, corporation or partnership at one fixed place of business, only one license shall be required and the charge for such license shall be the highest charge applicable to any of the activities, and all activities shall be listed on the license issued.

C. When more than one trade, calling, profession, occupation or business shall be carried on, transacted or practiced by the same person, corporation or partnership without any fixed place of business, a separate license shall be required and a separate appropriate charge be paid for each activity for which a license is required by this article.

Section 8-1-5 License to be Exhibited

A. Each person, corporation or partnership having a license and having a fixed place of business shall keep said license, while in force, at some conspicuous place or location within the place of business.

B. Each person, corporation or partnership having a license and having no fixed place of business shall carry such license with them at all times, while engaged in any activity for which the license was issued, except that a person acting for any such corporation, firm or company and not being the only person acting for such corporation, firm or company may carry with them a copy of the license which has been issued by the clerk and plainly marked or stamped "Duplicate".

C. Each person, corporation or partnership having a license shall produce and exhibit the same whenever requested to do so by any designated officer of the town or by the clerk.

Section 8-1-6 Inspector of Licenses

A. The clerk shall be inspector of licenses and may appoint, with approval of the manager, such assistant inspectors as may be required to enforce these regulations.

B. Each assistant inspector of licenses, immediately upon the facts coming to their knowledge, shall report to the clerk the name of any person, corporation or partnership carrying on, transacting or practicing any trade, calling, profession or business within the town without first having obtained a license as required by this article.

Section 8-1-7 Duties and Powers of Inspectors

A. The inspector of licenses and the assistant inspectors, each in the discharge and performance of their duties, shall have and exercise the following powers:

1. To file a complaint for any violation of the provisions of this chapter with the town magistrate.

2. To enter, free of charge and at any reasonable time, any place of business for which a license is required by this article and to demand exhibition of the license for the current period of time from any person, corporation or partnership engaged in carrying on, transacting or practicing any trade, calling, profession, occupation or business at such place of business and, if such person, corporation or partnership shall fail then and there to exhibit such license, such person, corporation or partnership shall be liable to the penalties provided for violation of this article.

B. When the charge for any license required hereunder shall remain unpaid for ten days from and after the due date, such charge shall be delinquent and the clerk, on the day upon which said charge becomes delinquent, shall add thereto an amount equal to twenty-five percent of said charge as a penalty and no receipt or license shall be issued thereafter by the clerk until the charge and penalty shall be paid in full.

Section 8-1-8 Transfer of License

No license issued under the provisions of this article shall be assigned or transferred to any other person, corporation or partnership without first obtaining permission from the town.

Section 8-1-9 Prorating Prohibited

No license fee herein provided shall be prorated, except that annual licenses issued after the first of December shall be valid for all of the subsequent year and shall reflect an appropriate expiration date.

Section 8-1-10 Business License Fees[2]

Initial application for providers of services, wholesalers and manufacturers with a fixed place of business within the town limits

$60

Initial application for retail merchants, restaurants, bars, contractors and rental of real and personal property with a fixed place of business within the town limits and persons engaging in the sale or rental of real estate

$60

Initial application for Wholesalers, manufacturers and providers of services without a fixed place of business within the town limits

$60

[2]Ordinance 457-09, Ordinance 554-14, 580-15

Initial application for Retail merchants, etc. (as above) without a fixed place of business within the town limits	$60
Renewal fee for all businesses within the town limits	$40/year
Renewal fee for all businesses without a fixed place of business within the town limits	$60/year
Liquor license – all license types (issued January)	$200/calendar year
Peddlers and mobile merchants as defined in this chapter	$250/calendar quarter or fraction thereof
Promoters of entertainments, circuses, bazaars, etc., who receive a percentage of receipts or other consideration for their services. Each such promoter shall also obtain liability insurance of a minimum of $1 million naming the town as insured.	$100/week
Animal Show	$100/week
Circus Parade Only	$50/day
Handbill Distributor	$10/day
Amusement Company, such as ferris wheel, merry-go-round, etc., not part of a circus	$100/day
Tent Show	$100/day
Wrestling Exhibition	$100/day
Road Show, Carnival or Circus	$100/day
Practice of palmistry, phrenology, astrology, fortune telling, mind reading, clairvoyancy, magic or any healing practices not licensed by the State of Arizona, or any similar calling without a fixed place of business	$50/day

Section 8-1-11 Restrictions; Suspension; Revocation

Licenses issued under the provisions of this chapter may be restricted, suspended or revoked by the town clerk, after notice and an opportunity for a hearing, for any of the following causes:

A. Fraud, misrepresentation or false statement contained in the application for license.

B. Fraud, misrepresentation or false statement made in the course of carrying on the business.

C. Any violation of this chapter.

D. Conviction of any crime or misdemeanor involving moral turpitude.

E. Conducting business in violation of any town ordinance, county ordinance or state law relating to the public health, safety and welfare.

Section 8-1-12 Appeals

A. Notice of the hearing for restrictions, suspension or revocation of a license shall be given in writing, by the town clerk, setting forth specifically the grounds for the restrictions, suspension or revocation and the time and place of the hearing. Such notice shall be mailed to the licensee at the address listed on the business license application at least ten days prior to the date set for the hearing. The mailing of such notice shall constitute proper notice to the licensee.

B. Any person aggrieved by the denial of an application for license or by the restrictions placed upon the license or by the suspension or revocation of such license shall have the right of appeal to the council. Such appeal shall be taken by filing with the town clerk, within fourteen days after such denial, restriction, suspension or revocation, a written statement setting forth fully the grounds for the appeal. The council shall set a time and a place for hearing of such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided for notice of a hearing on suspension or revocation. The decision and order of the council on such appeal shall be final.

ARTICLE 8-2 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS[1]

8-2-1 License Required
8-2-2 Definitions
8-2-3 Exemptions from Article
8-2-4 Application for License and Permit
8-2-5 Investigation of Applicant for License and Permit; Issuance and Contents of License
8-2-6 Solicitation by Charitable, Religious, Patriotic or Philanthropic Organizations
8-2-7 Posting of License; Issuance of Identification Cards
8-2-8 Location for Transaction of Business Regulated
8-2-9 Creation of Undue Noise Prohibited
8-2-10 Enforcement of Article; Record of Licenses Issued and Violations Reported
8-2-11 Revocation of License and Permit
8-2-12 Appeal from Denial or Revocation of License
8-2-13 Peddling, Etc., on Posted Premises or Refusal to Leave Premises Upon Request Prohibited

[1]Ordinance 43-94; Ordinance 504-15

BUSINESS REGULATIONS

Section 8-2-1 License Required

It is unlawful for any peddler, solicitor, transient merchant or itinerant vendor, as the same are defined in this chapter, to engage in such business within the corporate limits of the town without first obtaining a license in compliance with the provisions of this chapter, provided**,** However, that the provisions of this chapter shall not apply to the producers of agricultural products as defined in state law, or to any member of the family or agents or persons in the service of the producer, when the agricultural products are sold or disposed of on behalf of the producer.

Section 8-2-2 Definitions

In this chapter, unless the context otherwise requires:

A. "Solicitor" means any person, corporate or individual, or firm, whether resident of the town or not, who travels, or whose agents travel, either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, from street to street or business to business, taking or attempting to take orders for sale of goods, wares and merchandise, edible foodstuffs, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether collecting advance payments on such sales or not; provided that such definition shall include any person or firm who, for themself or itself, or for another person or firm, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery.

B. "Peddler" means any person, individual or corporate, or firm, whether a resident of the town or not, who travels, or whose agents travel, by foot, wagon, automobile or any other type of conveyance, from place to place, from house to house, from street to street or business to business, carrying, conveying or transporting goods, wares, merchandise, edible foodstuffs or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same from a wagon, automotive vehicle, railroad car or other conveyance, and further provided, that persons or firms who solicit orders and as a separate transaction make delivery to purchasers as a part of the scheme of design to evade the provisions herein contained shall be deemed a peddler subject to the provisions herein contained. The word "peddler" shall include the words "hawker" and "huckster".

C. "Transient merchant", "itinerant merchant" or "itinerant vendor" means any person, corporate or individual, or firm, whether owner or otherwise, whether a resident of the town or not, who engages, or whose agents engage, in a temporary business of selling and delivering goods, wares, merchandise, edible foodstuffs or provisions, within the town, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the town for the exhibition and sale of such goods, wares, merchandise and edible foodstuffs, either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant or auctioneer.

Section 8-2-3 Exemptions from Article

In addition to the provisions of subsection C of Section 8-1-1, the terms of this article do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newspaper deliverers, students on school class projects, nor to acts of merchants or their employees in delivering goods in the regular course of business. Nothing contained in this article prohibits any sale required by statute or by order of any court or prevents any person from conducting a bona fide auction sale pursuant to law.

Section 8-2-4 Application for License and Permit

A. Individual Applicants. Individual applicants for the permit and license under this article must comply with the licensing requirements of Article 8-1 as well as this article. An applicant shall supply the following information to the town clerk in addition to the information required by Article 8-1:

1. Name and description of the applicant; date of birth; social security number.
2. Address (legal and local); state sales tax number.
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 evidence establishing the exact relationship.
5. The length of time for which the right to do business is desired.
6. If a vehicle is to be used, a description of the same, together with license number or other means of identification.
7. A photograph of the applicant taken within sixty days immediately prior to the date of filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
8. The names of at least two reliable property owners of the town who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant.
9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefor.
10. Applicants proposing to sell edible foodstuffs shall file with the application a statement by a reputable physician of the town, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease or, in lieu thereof, a Maricopa County health card.
11. At the time of filing the application, a fee of twenty-five dollars shall be paid to the clerk to cover the costs of the investigation.

B. Corporate or Firm Applicants. Corporate or firm applicants must furnish the following information upon duplicate applications sworn to by an appropriate officer of the firm or corporation authorized so to do:

1. Name of applicant; date of birth; social security number.

2. Address (legal and local); state sales tax number.

3. A brief description of the nature of the business and the goods, etc., to be sold.

4. The length of time for which the right to do business is desired.

5. If vehicles are to be used, the quantity and description of same, together with the license numbers or other means of identification.

6. A list of all of the agents or representatives who will be operating within the town, including their addresses. In this connection, such firm or corporation shall furnish at the time of application the following information and material pertaining to such representatives or agents:

   a. A photograph of each agent or representative taken within sixty days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the agent or representative in a clear and distinguishing manner.

   b. The names of at least two reliable property owners of the town who will certify as to each person's good character and business responsibility or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the agents or representatives concerned.

   c. A statement as to whether each agent or representative has been convicted of any crime, misdemeanor (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefor.

   d. A statement by a reputable physician of the town, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease or, in lieu thereof, a health certificate or card issued by Maricopa County.

   e. A fee of twenty-five dollars per agent or representative shall be paid to the clerk to cover the cost of investigation.

C. No license issued hereunder shall be transferable, but corporate or firm licensees may change, substitute or alter the list of their agents or representatives furnished to the clerk at any time; provided, however, that for each newly named agent or representative on such list, the information and material required in subsection B, paragraph 6 of this section must be provided to the town clerk. A newly named agent or representative will not be deemed in compliance with the requirements of this ordinance until an identification card has been issued to such agent or representative pursuant to Section 8-2-7 of this ordinance.

Section 8-2-5 Investigation of Applicant for License and Permit; Issuance and Contents of License

Upon receipt of such application, the clerk shall cause such investigation of such person's business responsibility or moral character to be made as is deemed necessary to the protection of the public good. No license shall be issued until ten working days have passed or completion of the required investigation, whichever is the longer. If, as a result of such investigation, the applicant's or their agents' or representatives' business responsibility and character are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the clerk shall so certify in writing, and a license shall be issued by the clerk. The clerk shall keep a full record of all licenses issued. Such license shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where such business may be carried on under such license and the name of the person authorized to carry on the same.

Section 8-2-6 Solicitation By Charitable, Religious, Patriotic or Philanthropic Organizations

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 to persons other than members of such organization upon the streets, in office or business buildings, by door-to-door contact, or in public places for a charitable, religious, patriotic or philanthropic purpose exclusively shall be exempt from the provisions of Sections 8-2-1, 8-2-3 and 8-2-10 of this article; provided, there is filed a sworn application in writing on a form to be furnished by the town clerk which shall give the following information:

1. Name and purpose of the cause for which the permit is sought.
2. Names and addresses of the officers and directors of the organization.
3. Period during which the solicitation is to be carried on.
4. Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

B. Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, but no later than ten working days after receipt of the application, the clerk shall issue a permit without charge to such organization, association or corporation to solicit in the town. Such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitations identification cards stating the name of the organization, name of agent and purpose of solicitation which must be displayed upon demand.

Section 8-2-7 Posting of License; Issuance of Identification Cards

The license issued to the individual or corporate licensees hereunder shall be posted in a conspicuous place if such licensees are using a vehicle or building. The clerk shall issue an identification card to each individual licensee having upon it the pertinent information contained in such license. Agents and representatives of corporate and firm applicants shall be issued similar identification cards. All such cards shall be shown upon request and no licensee or such licensee's agent or representative may undertake the activities regulated by this chapter until such identification card has been issued.

Section 8-2-8 Location for Transaction of Business Regulated

No licensee hereunder shall have any exclusive right to any location in the public street, nor shall any licensee be permitted a stationary location, nor shall they transact business within three hundred feet of a public school ground, nor shall they be permitted to operate in any congested area where the operations might impede or inconvenience the public. For the purpose of this article, the judgment of the clerk or the clerk's representative, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Section 8-2-9 Creation of Undue Noise Prohibited

No licensee nor any person in their behalf shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system, upon any of the streets, alleys, parks or other public places of the town or upon any private premises in the town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the public thoroughfares for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Section 8-2-10 Enforcement of Article; Record of Licenses Issued and Violations Reported

It shall be the duty of the law enforcement agency of the town to enforce this article. The law enforcement agent shall report to the clerk all convictions for violation of this article, and the clerk shall maintain a record for each license issued and record the reports of violations therein.

Section 8-2-11 Revocation of License and Permit

Permits and licenses issued under the provisions of this article may be revoked by the clerk after notice and hearing, as provided in Article 8-1 of this code, for any of the following causes:

A. Fraud, misrepresentation or false statement contained in the application for license.

B. Fraud, misrepresentation or false statement made in the course of carrying on their business.

C. Any violation of this chapter.

D. Conviction of any crime or misdemeanor involving moral turpitude.

E. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

Section 8-2-12 Appeal From Denial or Revocation of License

An appeal from denial or revocation of license shall be controlled by the provisions of Article 8-1 of this chapter, pertaining to appeal regarding business licenses.

Section 8-2-13 Peddling, etc., on Posted Premises or Refusal to Leave Premises Upon Request Prohibited

A. It is unlawful for any peddler, solicitor or transient merchant, their agents or representatives, to come upon any premises whereon a sign bearing the words "no peddlers," "no solicitors," “no transient merchants,” “no “door-to-door salesmen,” or any combination of such terms or terms similar thereto is exposed to public view.

B. It is also unlawful for any peddler, solicitor or transient merchant, their agents or representatives to remain on any premises after having been requested to leave by the owner or occupant thereof whether such premises are posted as specified above or not.

Article 8-3 YARD SALES[1]

8-3-1Definitions
8-3-2Regulations
8-3-3License

Section 8-3-1 Definitions

In this article, unless the context otherwise requires:

A. “Miscellaneous merchandise” means those items offered for retail sale at a yard sale which merchandise has not been purchased for the purpose of resale.

B. “Yard sales” means the resale by the resident of a specific address of miscellaneous merchandise occurring without regularity.

Section 8-3-2 Regulations

[1]Ordinance 99-97

A. Yard sales shall only be conducted by the owner or resident of a specific residential address and only for the purposes of selling miscellaneous merchandise at retail.

B. Yard sales shall be limited to no more than four times per calendar year per address and shall not exceed forty-eight hours in total length for each of the four permitted times.

C. At no time shall any yard sale be permitted to operate if, in the judgment of the town manager, such operation is detrimental to the public health, safety or welfare of the surrounding neighbors or the community.

D. All yard sales shall be conducted during the daylight hours only, and all miscellaneous merchandise as well as the tables or stands that they are displayed on shall be removed from the sight at the conclusion of each permitted forty-eight hour period.

Section 8-3-3 License

A. It shall be unlawful for any person or other entity or for any agent, servant or employee of any person or other entity to engage in, carry on or conduct a yard sale without first obtaining a license to do so.

B. There shall be a charge of one dollar for a license which shall be issued for each forty-eight hour period of a yard sale.

ARTICLE 8-4 PARIMUTUEL WAGERING[1]

8-4-1 Definitions
8-4-2 Purpose; Effect on Other Regulations
8-4-3 Administration
8-4-4 Teletrack Operator, Teletrack Wagering Establishment, License Required
8-4-5 Information Required for Teletrack Operator License Applications
8-4-6 Teletrack Wagering Establishment License; Application
8-4-7 Location of Teletrack Wagering Establishment
8-4-8 Additional Information
8-4-9 Payment of Fee and Taxes
8-4-10 Fingerprinting, Criminal History Investigation, Exemption
8-4-11 Issuance and Display of License Identification Card; Nontransferability
8-4-12 Fees
8-4-13 Term of License
8-4-14 Public Hearing on Teletrack Wagering Establishment License; Notice
8-4-15 Information Update
8-4-16 Special Provisions
8-4-17 Renewal
8-4-18 Inspection of Premises, Property and Records
8-4-19 Revocation; Grounds
8-4-20 Teletrack Operator License Suspension

[1]Ordinances 105-97 and 125-98

BUSINESS REGULATIONS

Section 8-4-1 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

A. "Person" means any individual, partnership, limited partnership, firm, corporation or association of any kind.

B. "Racing program" means the live races conducted at an authorized track and any simulcast races shown to the public in conjunction with live racing on which parimutuel wagering is allowed.

C. "Teletrack operator" means any person who holds an Arizona Racing Commission permit for dog or horse racing events within Arizona and who accepts bets or wagers on the results of any parimutuel race at a location other than the race track and who regularly conducts dog or horse racing events for at least thirty days in the course of a calendar year.

D. "Teletrack wagering" means parimutuel wagering conducted at an off-track teletrack facility on a dog or horse racing program which is authorized within Arizona.

E. "Teletrack wagering establishment" means any establishment at which a teletrack operator accepts bets or wagers on the results of a dog or horse racing program conducted by a teletrack operator at an authorized track within Arizona.

F. "Teletracking" means the telecast of live audio and visual signals of dog or horse racing programs conducted at an authorized enclosure within Arizona to an authorized additional wagering facility within Queen Creek for the purpose of parimutuel wagering.

Section 8-4-2 Purpose; Effect on Other Regulations

This article is enacted for regulatory purposes. Persons required to obtain a license for any activity covered by this article remain subject to all other applicable regulatory, tax or fee ordinances of the town.

Section 8-4-3 Administration

A. The town manager shall administer this article, except as otherwise specifically provided, and shall develop appropriate forms for this purpose. The county sheriff's department shall assist in connection with license applications and enforcement.

B. License applications made pursuant to this article shall be submitted to the town manager or designee, who may issue, deny, suspend or revoke licenses in accordance with this Article, provided that the decision whether or not to issue a teletrack wagering establishment license shall be made by the town council following the hearing provided for in Section 8-4-14.

Section 8-4-4 Teletrack Operator, Teletrack Wagering Establishment, License Required

A. It is unlawful for any person to function in the town as a teletrack operator or operate a teletrack wagering establishment without first obtaining the appropriate license under this article.

B. The licenses required by this section shall be in addition to any other licenses or permits required by any governmental authority.

C. A separate teletrack wagering establishment license is required for each teletracking location within the town.

D. A separate teletrack operator license is required for each teletrack operator located at a teletrack wagering establishment.

E. A person desiring to operate a teletrack wagering establishment and to function as a teletrack operator shall obtain a license for each activity.

F. Licenses issued pursuant to this chapter are nontransferable.

Section 8-4-5 Information Required for Teletrack Operator License Applications

Applications for a teletrack operator license under this chapter shall include the following information:

A. The applicant's business name, business location, business mailing address and business telephone number.

B. The full legal name, date of birth and residence address of all persons who participate in management, control or policy direction of the teletrack operator, including, with respect to a corporation, the corporation's officers, directors and shareholders holding ten percent or more of the outstanding shares of the corporation's stock.

C. Information with respect to any of the persons identified pursuant to section B of this section shall include a full disclosure as to (1) any felony conviction of such person within the preceding five years; (2) any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming, in any jurisdiction; and (3) revocation or suspension of any license or permit relating to parimutuel betting or teletracking activities.

D. Proof that the applicant holds a valid permit from the Arizona Racing Commission to conduct parimutuel races within the State of Arizona.

E. Proof that a teletrack wagering establishment license has been issued or applied for with respect to the facility in which the teletrack operator license will be utilized, and proof of an agreement for use of the establishment by the applicant for teletrack wagering purposes.

F. A plan of operation in accordance with the specifications of Arizona Administrative Code, Title 19, Chapter 2, Section R19-2-404.

Section 8-4-6 Teletrack Wagering Establishment License; Application

Applicants for a teletrack wagering establishment license shall provide the following information as part of the application:

A. The applicant's name, date of birth, residence address and telephone number.

B. The applicant's business name, business location, business mailing address and business telephone number.

C. The full legal name, date of birth and residence address of all persons who participate in management, control or policy direction of the establishment, including, with respect to a corporation, the corporation's officers, directors and stockholders holding ten percent or more of the outstanding shares of the corporation's stock.

D. Information with respect to any of the persons identified pursuant to subsection C of this section shall include full disclosure as to (1) any felony conviction of such person within the preceding five years; (2) any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming, in any jurisdiction; and (3) revocation or suspension of any license or permit relating to parimutuel betting or teletracking activities.

E. Proof of a current license for the site if the establishment serves liquor.

F. Accurate drawings to scale indicating the floor plan of all buildings on the premises and the precise location of all teletracking facilities and activities.

G. A site plan for all buildings and associated parcel lines, including evidence of compliance with Section 8-4-7 of this article.

H. A vicinity ownership map showing and labeling all parcels within five hundred feet of the exterior boundaries of the parcel, not including public property or right-of-way.

I. A vicinity ownership list and mailing labels properly addressed, containing names and mailing addresses, with correct zip codes, of owners of all parcels shown on the vicinity ownership map.

J. A parking plan showing all parking spaces available for the site and traffic flow patterns.

K. A security plan which may include security guards and other appropriate measures for the protection of patrons, employees and the public.

L. Proof that a teletrack operator license has been issued or applied for with respect to each operator who will conduct teletrack wagering activities at the establishment, and proof of an agreement between the applicant and each operator for use of the establishment by the operator for teletrack wagering purposes.

Section 8-4-7 Location of Teletrack Wagering Establishment

A. No license shall be granted for any teletrack wagering establishment unless all of the following standards are met:

1. No teletrack wagering establishment shall be located within one thousand feet of any other teletrack wagering establishment.

2. No teletrack wagering establishment shall be located within five hundred feet of any public or private school, public park or day nursery or preschool.

3. The applicant for teletrack wagering establishment located within five hundred feet of any of the following zoning district boundaries: RI-43, RI-35, RI-18, RI-8, RI-6, R-2, R-3, R-4, R-5, MHR, C-S, C-O, C-1 or C-2 has posted the property and sent notice of the proposed teletrack use to each household on the vicinity ownership map required in Section 8-4-6 (I). Such notice shall be sent and shall indicate that the resident shall file any protest to the application in writing with the town manager or designee within thirty days or the application will be administratively approved. If any protests are received, a public hearing shall be held in accordance with Section 8-4-14 prior to issuance unless a petition requesting waiver of this requirement, signed by fifty-one percent of those persons residing thirty days or more within a five hundred-foot radius of the proposed location is received and verified by the town manager or designee. In such case, the town council may waive the requirements of this paragraph.

B. For purposes of this section, streets, alleys and other thoroughfares adjacent to the zoning district boundaries specified in subsection (A)(3) shall themselves be considered within such district boundaries. With respect to any such street, alley or other thoroughfare, measurements to determine whether the teletrack wagering establishment is within five hundred feet of such boundary shall be taken to the edge of such alley nearest to the teletrack wagering establishment, or from the centerline of such street or thoroughfare, or to the property line of said public or private school, public park or other teletrack wagering establishment. Measurement from the teletrack wagering establishment shall be taken from that portion of the teletrack wagering establishment, including projections therefrom, that is closest to said residential district, public or private school, public park or other teletrack wagering establishment.

C. These provisions shall not be construed as permitting any use or activity which is otherwise prohibited or made punishable by law.

Section 8-4-8 Additional Information

In addition to the information specified above an applicant shall provide such supplemental information as the town manager or designee reasonably determines to be necessary to fully evaluate the application.

Section 8-4-9 Payment of Fees and Taxes

No application for a license under this chapter will be processed with respect to an applicant who is delinquent in payment of any town taxes, fees or other payments due.

Section 8-4-10 Fingerprinting, Criminal History Investigation, Exemption

Applicants for any license under this chapter, and all other persons required to be identified in connection with an application shall be subject to background and criminal history investigation and fingerprinting, provided that, fingerprinting and criminal history investigation will not be required for a teletrack operator if:

A. The applicant, within twelve months prior to filing the application for a town teletrack operator license, has supplied the required information to the Arizona Racing Commission or to the Arizona Department of Racing or updated such information previously supplied as to any material changes and a criminal history investigation has been conducted at the state level on the basis of said information; and

B. The information described in subsection A and the result of the criminal investigation are available to the county sheriff.

Section 8-4-11 Issuance and Display of License Identification Card; Nontransferability

A. At the election of the town manager or designee, the license identification card may constitute the actual license issued.

B. The license identification card shall be displayed on an outer garment, on the front of the body above the waist, with photograph visible while the holder is on the teletrack wagering establishment premises.

Section 8-4-12 Fees

An application for a teletrack operator or teletrack wagering establishment shall include a nonrefundable application fee of two hundred dollars and other fees required by this article.

A. The fee for a teletrack operator license shall be:

1. One thousand two hundred dollars per year for up to four parimutuel betting windows or tote machines.

2. Five hundred dollars per year for each parimutuel window or tote machine in excess of four.

B. The fee for a teletrack wagering establishment license shall be one hundred dollars per year.

C. A twenty-five dollar fee for criminal history investigation and fingerprinting shall be paid at

the time of application with respect to each applicant and person required to be identified in connection with an application under this article, unless exempt from Section 8-4-10.

D. A ten dollar fee shall be paid for a replacement license identification card if required because of loss of the original.

Section 8-4-13 Term of License

The term of a teletrack wagering establishment and teletrack operator license issued pursuant to the provisions of this article is one year, commencing at the same time as the teletrack permit issued by the State of Arizona for the establishment.

Section 8-4-14 Public Hearing on Teletrack Wagering Establishment License; Notice

A. The town council shall hold a public hearing on an application for a teletrack wagering establishment license except as provided in Section 8-4-7(A)(3). Notice of the hearing shall be given at least thirty days prior to the hearing in the following manner:

1. Notice shall be published at least once in a newspaper of general circulation in the town.

2. Notice shall be posted on the subject property in such a manner as to be legible from the public right-of-way.

3. Notice shall be mailed by first class mail to each owner and tenant as listed on the vicinity ownership list.

B. Within five working days of the public hearing the applicant shall be notified in writing of the council's decision to approve or deny the application. The town manager or designee shall communicate this decision to the state racing commission.

C. The council may approve or deny the application or may approve subject to conditions for any reason deemed appropriate by the council in order to provide optimum protection for the public health, safety and welfare.

Section 8-4-15 Information Update

An applicant or licensee shall give written notice to the town manager or designee of any material changes in information submitted in connection with an application, within ten days of such change.

Section 8-4-16 Special Provisions

A. A person under the age of eighteen years may not be present on the premises of a teletrack wagering establishment during any time when teletrack wagering is being conducted, unless accompanied by a parent or guardian.

B. The owner or operator of the teletrack wagering establishment shall take all reasonable measures, including but not limited to requiring identification from persons entering or

present in a teletrack wagering establishment, to prevent unlawful gambling by minors.

C. Wagering pay-offs in a single amount of five hundred dollars or more shall be made by check or similar instrument other than cash. Notice to this effect shall be posted conspicuously near all betting windows.

D. Teletrack wagering establishments shall maintain security in accordance with the security plan approved during licensing of the establishment by the town.

E. Teletrack wagering may be conducted only between the hours of 7:00 a.m. and 1:00 a.m.

F. Revocation or suspension of a state operator license or permit will constitute automatic revocation or suspension of the corresponding town license.

Section 8-4-17 Renewal

A. Sixty days prior to the license expiration date, a licensee may apply to the town manager or designee for renewal of the license. Application shall be made and reviewed as an original application, except that an application fee payment is not required on a renewal application. All other applicable fee payments are required.

B. Criminal history investigations and fingerprinting shall be completed each year as part of the renewal process, unless Section 8-4-10 applies.

C. Granting of a license under this article does not confer an entitlement to or presumption of renewal of the license. Renewal may be denied for any reason deemed sufficient by the town council.

Section 8-4-18 Inspection of Premises, Property and Records

The business premises of any person required to be licensed under this article, including any property on the premises and any and all ledgers, books, records or memoranda, including information maintained on computer disks, tapes and terminal memory shall be open to inspection by representatives of the town upon request, at any time during the licensee's regular business hours.

Section 8-4-19 Revocation; Grounds

A. The town manager or designee may revoke a license in accordance with the procedures on any of the grounds for revocation stated in Article 8-1 of this chapter, and for any of the following additional grounds:

1. Violation of the laws governing wagering within the State of Arizona or the sale of liquor within the State of Arizona.

2. Repeated acts of violence or disorderly conduct.

3. False or misleading testimony by the licensee in an investigation or other proceeding.

4. Delinquency for more than thirty days in the payment of any applicable taxes or fees to the town.

5. Failure to operate a teletrack wagering establishment in compliance with plans submitted and approved pursuant to Section 8-4-6 (F), (J) and (K) of this article.

6. Violation of any of the provisions of this article.

B. Revocation of a teletrack wagering establishment license shall constitute revocation of the teletrack operator license(s) issued for the same location.

Section 8-4-20 Teletrack Operator License Suspension

The teletrack operator license will be suspended in the event the teletrack wagering establishment location is no longer licensed due to ownership change or expiration of teletrack wagering establishment license.

ARTICLE 8-5 SEXUALLY ORIENTED BUSINESSES[1]

8-5-1 Purpose and Findings
8-5-2 Definitions
8-5-3 Classification
8-5-4 License Required
8-5-5 Issuance of License
8-5-6 Fees
8-5-7 Inspection
8-5-8 Expiration of License
8-5-9 Suspension
8-5-10 Revocation
8-5-11 Transfer of License
8-5-12 Location of Sexually Oriented Businesses
8-5-13 Additional Regulations for Adult Motels
8-5-14 Additional Regulations for Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms
8-5-15 Additional Regulations for Escort Agencies
8-5-16 Additional Regulations for Nude Model Studios
8-5-17 Additional Regulations Concerning Public Nudity
8-5-18 Prohibition Against Children in a Sexually Oriented Business
8-5-19 Hours of Operation
8-5-20 Exemptions
8-5-21 Penalty; Injunction

Section 8-5-1 Purpose and Findings

A. Purpose. It is the purpose of this article to regulate sexually oriented businesses in order

[1]Ordinance 123-98

to promote the health, safety, morals and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the town. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

B. Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976) and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio and Beaumont, Texas and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the council finds:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

2. Certain employees of sexually oriented businesses defined in this article as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows.

4. Offering and providing such space encourages such activities, which creates unhealthy conditions.

5. Persons frequent certain adult theaters, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

6. At least fifty communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States -- 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.

8. As of June 26, 1996, there have been 4,377 reported cases of AIDS in the State of Arizona.

9. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

10. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

11. The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

12. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

13. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

14. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

15. The findings noted in paragraphs number 1 through 14 raise substantial governmental concerns.

16. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

17. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

18. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

19. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

20. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

21. It is desirable in the prevention of the spread of communicable diseases to obtain a

limited amount of information regarding certain employees who may engage in the conduct which this article is designed to prevent or who are likely to be witnesses to such activity.

22. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this article.

23. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

24. The general welfare, health, morals and safety of the citizens of the Town will be promoted by the enactment of this article.

Section 8-5-2 Definitions

In this article, unless the context otherwise requires:

A. “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or 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."

B. “Adult bookstore, adult novelty store or adult video store” means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. 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"; or

2. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

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 bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, 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."

C. “Adult cabaret” means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity or semi-nude; or

2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

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."

D. “Adult motel” means 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 adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than ten hours; or

3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

E. “Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

F. “Adult theater” means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

G.

"Employee" means a person who 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 said person is paid a salary, wage or other compensation by the operator of said 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.

H. "Escort" means 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.

I. "Escort agency" means 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.

J. "Establish" or "Establishment" means and includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business; or

2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

3. The additions of any sexually oriented business to any other existing sexually oriented business; or

4. The relocation of any sexually oriented business.

K. "Licensee" means a person in whose name a license to operate a sexually oriented business 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 sexually oriented business.

L. "Nude model studio" means any place where a person who appears semi-nude, 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 of Arizona 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 in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

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 or semi-nude model is on the premises at any one time.

M. “Nudity” or a “state of nudity” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

N. “Person” means an individual, proprietorship, partnership, corporation, association or other legal entity.

O. “Semi-nude” or in a “semi-nude condition” means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

P. “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

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 semi-nude.

Q. “Sexually oriented business” means 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 or sexual encounter center.

R. “Specified anatomical areas” means:

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

S. “Specified criminal activity” means any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, 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; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries 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; or

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 conviction is of a felony offense; or

c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period.

2.

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.

T. "Specified sexual activities" means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or

2. Sex acts, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

3. Excretory functions as part of or in connection with any of the activities set forth in paragraphs 1 and 2 above.

U. "Substantial enlargement" of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five percent, as the floor area exists on the date this article takes effect.

V. "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

1. The sale, lease or sublease of the business; or

2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

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.

Section 8-5-3 Classification

Sexually oriented businesses are classified as follows:

1. adult arcades
2. adult bookstores, adult novelty stores or adult video stores
3. adult cabarets
4. adult motels
5. adult motion picture theaters
6. adult theaters
7. escort agencies
8. nude model studios
9. sexual encounter centers

Section 8-5-4 License Required

A. It is unlawful:

1.

For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the town pursuant to this article.

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 as a sexually oriented business employee by the town pursuant to this article.

3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this article.

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 article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the town to determine whether the applicant meets the qualifications established in this article.

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 ten percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

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/her legal name and any aliases and submit proof that he/she is eighteen 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.

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' fictitious name and submit the required registration documents.

3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this article, 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 article 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 article 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 article or other similar sexually oriented business ordinance from another municipality or county and, if so, the names and locations of such 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 and residential address.

9. A recent photograph of the applicant(s).

10. The applicant's driver's license number, Social Security number and/or his/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. A current certificate and straight-line drawing prepared within thirty days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within one thousand feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

13. 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 one hundred-fifty 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 Section 8-5-14.

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

8. Proof that the individual is at least eighteen 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 Maricopa County Sheriff"s Office. 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 such 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 article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

Section 8-5-5 Issuance of License

A. Upon the filing of said application for a sexually oriented business employee license, the town clerk shall issue a temporary license to said applicant. The application shall then 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 thirty days from the date the completed application is filed. After the investigation, the town clerk shall issue a license, unless it is determined by a preponderance of the evidence 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; or

2. The applicant is under the age of eighteen years; or

3. The applicant has been convicted of a "specified criminal activity" as defined in this article; or

4. The sexually oriented business 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 article; or

5. The applicant has had a sexually oriented business employee license revoked by the town within two years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 8-5-10.

B. 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 specified criminal activity as defined in this article or committed 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 Section 8-5-6.

C. Within thirty days after receipt of a completed sexually oriented business application, the town clerk shall approve or deny the issuance of a license to an applicant. The town clerk 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 eighteen years of age.

2. An applicant or a person with whom applicant is residing is overdue in payment to the town of taxes, fees, fines or penalties assessed against or imposed upon him/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 a person with whom the applicant is residing has been denied a license by the town to operate a sexually oriented business within the preceding twelve months or whose license to operate a sexually oriented business has been revoked within the preceding twelve months.

5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this article.

6. The premises to be used for the sexually oriented business have not been approved by the Maricopa County health department, Rural Metro fire department and the building official as being in compliance with applicable laws and ordinances.

7. The license fee required by this article has not been paid.

8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.

D. 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 Section 8-5-3. 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.

E. The health department, fire department and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty days of receipt of the application by the town.

F. A sexually oriented business license shall issue for only one classification as found in Section 8-5-3.

Section 8-5-6 Fees

A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a five hundred dollar non-refundable application and investigation fee.

B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the town an annual non-refundable license fee of five hundred dollars within thirty days of license issuance or renewal.

C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual one hundred dollar non-refundable application, investigation and license fee.

D. All license applications and fees shall be submitted to the town clerk.

Section 8-5-7 Inspection

A. An applicant or licensee shall permit representatives of the Maricopa County Sheriff's Office, the Maricopa County Health Department, Rural Metro Fire Department, Town Zoning Department, or other 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. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

Section 8-5-8 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 Section 8-5-4. Application for renewal shall be made at least thirty days before the expiration date, and when made less than thirty days before the expiration date, the expiration of the license will not be affected.

B. When the town clerk 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 clerk 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 ninety days have elapsed since the date denial became final.

Section 8-5-9 Suspension

The town clerk shall suspend a license for a period not to exceed thirty days if a licensee or an employee of a licensee has:

C. violated or is not in compliance with any section of this article;

D. refused to allow an inspection of the sexually oriented business premises as authorized by this article.

Section 8-5-10 Revocation

A. The town clerk shall revoke a license if a cause of suspension in Section 8-5-9 occurs and the license has been suspended within the preceding twelve months.

B. The town clerk shall revoke a license if:

1. A licensee gave false or misleading information in the material submitted during the application process; or

2. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises; or

3. A licensee has knowingly allowed prostitution on the premises; or

4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended; or

5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises; or

6. A licensee is delinquent in payment to the town, county or state for any taxes or fees past due.

C. When the town clerk revokes a license, the revocation shall continue for one year, and the licensee shall not be issued any sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the town clerk finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety days have elapsed since the date the revocation became effective.

D. After denial of an application, or 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. The administrative action shall be promptly reviewed by the court.

Section 8-5-11 Transfer of License

A licensee shall not transfer his/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.

Section 8-5-12 Location of Sexually Oriented Businesses

A. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district not permitted in the Queen Creek Zoning Ordinance.

B. A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business within one thousand feet of:

1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities; or

2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; or

3. A boundary of a residential district as defined in the Queen Creek Zoning Ordinance; or

4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the town which is under the control, operation or management of the town park and recreation authorities; or

5. The property line of a lot devoted to a residential use as defined in the Queen Creek Zoning Ordinance; or

6. An entertainment business which is oriented primarily towards children or family entertainment; or

7. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.

C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand feet of another sexually oriented business.

D. A person commits a misdemeanor if that person causes or permits the operation, establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

E. For the purpose of subsection B of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection B. Presence of a town, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

F. For purposes of subsection C of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

Section 8-5-13 Additional Regulations for Adult Motels

A. Evidence that a sleeping room in a hotel, motel or a similar commercial establishments 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 article.

B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business license, he rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.

C. For purposes of subsection B of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

Section 8-5-14 Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in 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 one hundred fifty 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. An application for a sexually oriented business license 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 thirty-two 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's 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 clerk 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 clerk.

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 subsection 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 paragraph 5 of this subsection 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 paragraph 1 of this subsection.

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 that 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 forty eight inches of the floor.

B. A person having a duty under subsection A of this section commits a misdemeanor if he knowingly fails to fulfill that duty.

Section 8-5-15 Additional Regulations for Escort Agencies

A. An escort agency shall not employ any person under the age of eighteen years.

B. A person commits a misdemeanor if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen years.

Section 8-5-16 Additional Regulations for Nude Model Studios

A. A nude model studio shall not employ any person under the age of eighteen years.

B. A person under the age of eighteen years commits a misdemeanor if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen years was in a restroom not open to public view or visible to any other person.

C. A person commits a misdemeanor if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

D. 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.

Section 8-5-17 Additional Regulations Concerning Public Nudity

A. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

B. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears 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 a misdemeanor for an employee, while semi-nude in 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 said employee is semi-nude in a sexually oriented business.

D. It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

Section 8-5-18 Prohibition Against Children in a Sexually Oriented Business

A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen years on the premises of a sexually oriented business.

Section 8-5-19 Hours of Operation

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock A.M. and eight o'clock A.M. on weekdays and Saturdays, and one o'clock A.M. and noon P.M. on Sundays.

Section 8-5-20 Exemptions

It is a defense to prosecution under Section 8-5-17 that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school licensed by the State of Arizona; 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; or

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; and

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.

Section 8-5-21 Penalty; Injunction

A. Violation of any requirement or prohibition stated in this article is a class one misdemeanor. With respect to a violation that is continuing in nature, each day that the violation occurs is a separate offense.

B. In addition to other penalties, a sexually oriented business which operates without a valid license shall constitute a public nuisance, which, in addition to any other enforcement mechanisms in this Code, may be abated by a suit for injunctive relief.

CHAPTER 8A TAX CODE

ARTICLE 8A-1 ADOPTION OF TAX CODE[1]

That certain document known as "The Tax Code of the Town of Queen Creek, Arizona", three copies of which are on file in the office of the town clerk of the Town of Queen Creek, Arizona is hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

ARTICLE 8A-2 TOWN CENTER CODE

In addition to the taxes assessed pursuant to the Tax Code referenced in Section 8A-1, Sales subject to a transaction privilege tax pursuant to the Tax Code, and which are generated on property located in the Town Center (as defined and depicted in Ordinance No. 402-07) shall pay an additional tax of one-fourth percent (.25%).

CHAPTER 9 OFFENSES

ARTICLE [1]9-1 OFFENSES

9-1-1 Dangerous Constructions
9-1-2 Excavations to be Covered
9-1-3 Fireworks and Explosives[2]
9-1-4 Littering
9-1-5 Curfew Hours for Minor
9-1-6 Noise
9-1-7 Noise Regulations During Construction
9-1-8 Obstruction of View
9-1-9 Offensive Business
9-1-10 Offensive Premises
9-1-11 Prostitution
9-1-12 Searchlights
9-1-13 Signs and Banners
9-1-14 Spitting
9-1-15 Water - Flow Upon Streets Prohibited
9-1-16 Weapons

Section 9-1-1 Dangerous Constructions

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

Section 9-1-2 Excavations to be Covered

A. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the town without providing a sufficient light at night and a temporary fence or suitable obstruction around such excavation to protect the public during the day.

B. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering or protection.

Section 9-1-3 Explosives[2]

A. DEFINITIONS: The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Consumer Firework” means those fireworks defined by Arizona Revised Statutes Section 36-1601.

2. “Display Firework” means those fireworks defined by Arizona Revised Statutes Section 36-1601.

3. “Fireworks” means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing

[1]Amended by Ordinance 272-03 and Ordinance 282-04
[2]Amended by Ordinance 489-10; 578-15

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 Arizona Revised Statute Section 36-1601.

4. "Novelty Items" means federally deregulated novelty items that are known as glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statute 36-1601.

5. "Permissible Consumer Fireworks" means those fireworks as defined by Arizona Revised Statute Section 36-1601 that may be sold within the Town of Queen Creek even where the use of those items has been prohibited.

6. "Supervised Public Display*"* means a monitored performance of display fireworks open to the public and authorized by permit by the Chief of the Fire Department, Town Fire Marshal, or designee*.*

7. "Public Facilities" means any building or real property, other than public right of way, which is owned, leased or otherwise operated by a governmental entity.

B. Fireworks Prohibited; Exceptions[1].

1. The use, discharge or ignition of fireworks within the Town Of Queen Creek corporate boundaries is prohibited except as provided for in this section:

   a) The use, discharge or ignition of permissible consumer fireworks is limited to June 24 through July 6 and December 24 through January 3 each year on private property with the owner's permission

   b) The use discharge or ignition of fireworks is prohibited on all public property including in all public parks, public retention areas, public rights-of-way and public facilities.

2. Nothing in this section or chapter shall be construed to prohibit the use, discharge or ignition of novelty items as defined herein or the occurrence of a supervised public display of fireworks.

3. Permits may be granted by the Chief of the Fire Department, Town Fire Marshal 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 Chief of the Fire Department, the Fire Marshal or his designee have authority to impose conditions on any permits issued, including, but not limited to, those requirements contained in Arizona Revised Statutes, Title 36, the Fire Code adopted by the Town and any other applicable law. Permit conditions may include obligations by permittee for insurance, bonds and indemnity along with other measures.

[1]Amended by Ordinance 548-14

4. Failure to comply with any permit requirements and conditions issued by the Chief of the Fire Department, the Fire Marshal or his designee is a violation of this Section.

C. Sale of Fireworks[1].

1. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age.

2. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.

3. The sale of permissible consumer fireworks shall be allowed from May 20 through July 6 and December 10 through January 3 each year.

D. Posting of signs by persons engaged in the sale of fireworks; civil penalty[1].

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 limited to June 24 through July 6 and December 24 through January 3 each year on private property with the owner's permission.

b) Permissible consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.

2. Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.

3. The Chief of the Fire Department, the Fire Marshal or his 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. Signs shall be posted that are eight and one-half inches by eleven inches in size, that are on cardstock paper in landscape orientation with letters not less than four (4) inches in height and contains the following language on a contrasting background: "Fireworks - No Smoking".

E. Authority to enforce violations of this section; means of enforcement.

1. In addition to the enforcement officers specified in section 9-4 herein, the Chief of the Fire Department or designee and Fire Marshal or designee may issue civil citations to enforce violations of this Section 9-1-3.

[1]Amended by Ordinance 548-14

2. A person violating a provision of this Section 9-1-3 is subject to a civil penalty of $1,000.00.

3. Any person authorized to issue a civil citation or a complaint for violation of this section may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid a civil penalty.

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 Subsection 1 above. The charge constitutes a debt of that person and may be collected by entities proportionately by the public agencies, for- profit or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall not exceed $15,000.00 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.

   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. Explosives.

It is unlawful for any person, other than a law enforcement officer in the performance of his duty, within the limits of the Town to blast, use powder or other explosives without a permit issued by the Chief of the Fire Department, Town Fire Marshal, or designee.

Section 9-1-4 Littering

It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds, church grounds or property of other persons.

"Litter" includes any rubbish, refuse, waste material, offal, paper, glass, cans, bottles, organic or inorganic trash, debris, filthy or odoriferous objects, dead animals or any foreign substance of whatever kind or description, including junked or abandoned vehicles, whether or not any of these items are of value.

Section 9-1-5 Curfew Hours for Minor[1]

A. Definitions. In this section, unless the context otherwise requires:

1. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action

2. "Guardian" means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or a person at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.

3. "Insufficient control" means failure to exercise reasonable care and diligence in the supervision of the juvenile.

4. "Minor" means any person less than eighteen years of age.

5. "Parent" means a person who is a natural parent, adoptive parent or step-parent of another person.

B. Offenses.

1. It is unlawful for any minor under the age of sixteen years to be in, about or upon any place in the town away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

2. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about or upon any place in the town away from the property where the child resides between the hours of 12:00 a.m. and 5:00 a.m.

3. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate paragraphs 1 or 2 of this subsection.

4. It is unlawful for a parent, guardian or other person having the care, custody or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of paragraphs 1 or 2 of this subsection.

C. Defenses/Exceptions.

It is a defense to prosecution under subsection B, including paragraph 3 of subsection B, of this section that the minor was:

1. Accompanied by the minor's parent or guardian.

2. With prior permission of the parent or guardian, in a motor vehicle involved in interstate travel.

3. With prior permission of the parent or guardian, in an employment activity or going to or returning home from an employment activity without any detour or stop by the

[1]Ordinance 72-95

most direct route.

4. Involved in an emergency.

5. With prior permission of the parent or guardian, was engaged in reasonable, legitimate and specific business and/or activity. Examples include, but are not limited to, a juvenile, with prior permission of the parent or guardian, attending an official school, religious or other recreational activity supervised by adults who take responsibility for the minor, or going to or returning home from an official school, religious or other recreational activity supervised by adults who take responsibility for the minor.

6. With prior permission of the parent or guardian, engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.

7. Married and sixteen years of age or over, or in the military.

8. On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.

D. Enforcement.

1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in subsection C of this section is probably present.

2. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of paragraphs 1 or 2 of subsection B of this section is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of the minor that such parent, guardian or other person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

E. Each violation of the provisions of subsection B of this Section shall constitute a separate offense.

F. A person convicted of a violation of any provision of this section shall be guilty of a class 1 misdemeanor. This offense is designated an incorrigible offense for minors under the jurisdiction of the juvenile court.

Section 9-1-6 Noise[1]

A. It is hereby declared to be a public nuisance, and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.

B. It is unlawful to play, operate, or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the chief of police to operate any such vehicle so equipped.

C. It is unlawful for any person:

1. To operate a motor vehicle, that is not at all times equipped with a muffler upon the exhaust system. This muffler must be in good working order and in constant operation so as to prevent excessive or unusual noise. It is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.

2. To operate a truck or other motor vehicle in such a manner as to cause the engine to emit additional noise from its exhaust or muffler system through deceleration or through a practice commonly known as jake braking.

D. It is unlawful for any person, establishment, corporation or institution to allow or cause excessive, loud, or unusual noise to emit from real or personal property that they own or control, regardless of the instrument, device, or source of the noise, between the hours of 10:00 p.m. and 6:00 a.m. It shall be prima facie evidence that a noise is loud, excessive or unusual if it can be heard by a person, who has normal hearing ability, for a distance of two hundred feet or more from its source.

E. Exemptions from noise level regulations:

1. Safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment, authorized emergency vehicles engaged in an emergency activity and emergency pressure-relief valves.

2. A vehicle operated by a gas, electric, communications, or water utility company, or governmental entity while being operated for official business.

3. When the sound amplification system is being operated to request assistance of an emergency nature or to warn of a hazardous situation.

[1]Amended by Ordinance 272-03; Ordinance 330-06 & 611-16

4. Noises from the normal operation of railroad trains.

5. A vehicle used for advertising in a parade or in a political or other special event as authorized by the town.

6. Church chimes or bells.

7. Crowd noises resulting from activities such as those planned for school, government, or community groups or duly authorized by such groups.

8. Organized sporting events.

9. Noises created by 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 regulations, together with any noise created by aircraft operating under or pursuant to declaration of any emergency under federal air regulations.

10. Heating and cooling equipment when it is functioning in accordance with manufacturer's specifications and is in proper operating condition.

11. 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 between the hours of 6:00 a.m. and 10:00 p.m.

F. Unnecessary Noise

1. Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person without justification to make or continue, or cause or permit to be made or continued, any unnecessary, excessive or offensive noise, which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

2. The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following:

(a.) The volume of the noise;

(b.) The intensity of the noise;

(c.) Whether the nature of the noise is usual or unusual;

(d.) Whether the nature of the noise is natural or unnatural;

(e.) The volume and intensity of the background noise, if any;

(f.) The proximity of the noise to residential sleeping facilities;
(g.) The nature and zoning of the area within which the noise emanates;

(h.) The time of the day or night the noise occurs;

(i.) The duration of the noise;

(j.) Whether the noise is recurrent, intermittent or constant;

(k.) Whether the noise is produced by a commercial or noncommercial activity;

(l.) Whether it is an impulse noise.

G. Animal noise Ordinance 624-16

1. It is unlawful to keep or harbor any animal which by frequent, habitual or continued barking, yelping or howling, crowing or the making of any noise disturbs the peace of the neighborhood. A first violation of this subsection shall be a civil offense, a second violation shall be a petty offense, and a third violation shall be a Class 1 misdemeanor.

2. Notwithstanding the foregoing, no summons or complaint shall be issued unless there are at least two complaining witnesses from separate households who shall have signed such complaint. In the absence of such a signed complaint, no civil fine may be assessed nor any conviction made.

3. For purposes of this subsection, a Town Code Enforcement Officer or law enforcement officer may be a complaining witness if, but only if, there are no residences within 1500 feet of the lot from which the noise is alleged to have arisen other than the original complainant, measured from property line to property line. There is no requirement that the original complainant live within 1500 feet of the property line in order to sign a complaint.

Section 9-1-7 Noise Regulations During Construction[1]

A. During the times hereinafter set forth, no construction activities of any kind, including but not limited to the making of an excavation, clearing of surface land and equipment or supplies, or the operation of mechanically powered tools anywhere in the town limits, shall be permitted, when such activities result in the generation of mechanically or electrically created noise that can be heard by a person with normal hearing within an occupied residential building, the windows of which are closed, if such building is located within five hundred feet of the construction site.

B. Start/stop time periods of construction. Abovementioned construction activities are prohibited during the following time periods, unless a permit is obtained as described in subsection C of this section:

1. Prior to 5:00 am and after 7:00 pm Monday through Friday from May 15 through September 15.
2. Prior to 6:00 am and after 7:00 pm Monday through Friday during the remainder of the year.
3. Prior to 7:00 am and after 5:00 pm on Saturdays throughout the year.
4. At all times on Sundays and Legal Holidays as defined by the town.

C. Permit. Construction work may be conducted at different times than otherwise permitted herein if, upon written application, a permit is obtained from the community development department, building safety division. A permit may be obtained for a single project, or for multiple projects under construction, by the same applicant, within 600 feet, approximately two blocks, of each other. In granting such permit, the building official shall consider whether construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime because of the different population levels or different neighborhood activities; whether obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime; whether the kind of work to be performed emits noises at such a low level as to not cause significant disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site; whether the neighborhood of the proposed work site is primarily residential in character wherein sleep would be disturbed; whether great economic hardship would occur if the work were spread over a longer time; whether the work will abate or prevent hazard to life or property; whether the proposed early morning or night work is in the general public interest. The building official shall prescribe such conditions, working times, types of construction equipment to be used and permissible noise emissions as the official deems appropriate in the public interest. No permit shall be required to perform emergency work necessary to restore property to a safe condition following a public calamity, work required to protect the health, safety or welfare of persons or property or work by private or public utilities when restoring utility service.

D. Revocation of permits; appeal. The building official may revoke any permit granted hereunder upon complaints based upon substantial evidence that the construction work causes significant disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site. Any person aggrieved by the granting of a permit or the refusal to grant a permit by the building official, or authorized representative, may appeal the decision to the community development director. Appeals to the community development director's decisions may be made to the town manager, with

[1]Amended by Ordinance 272-03; Ordinance 282-04

final appeal to the town council at a future meeting date.

E. Stop orders. Whenever any work on a construction project is in violation of the provisions of this section, the building official may order the construction project stopped by notice in writing served on any persons responsible for the project, and any such persons shall forthwith stop work on the project until a permit is obtained.

F. The following activities shall be excluded from such prohibition:

1. Noise generated by work being performed by a resident of a building or structure may continue until 10:00 pm but may not begin earlier than the times set forth in subsection B of this section.

2. Noise resulting from emergencies, including but not limited to, repair of roofs, windows, doors, electrical, plumbing and mechanical (HVAC) shall be permitted whenever necessary. An emergency shall be defined as any situation where work must be performed in order to prevent serious injury to persons or property.

3. Noise generated by sod delivery equipment, and vehicles.

4. Loading/unloading construction material, such as lumber, tile, and similar materials.

5. Termite pre-treatment**.**

Section 9-1-8 Obstruction of View

It is unlawful for any person to maintain or allow any tree, hedge, billboard or other obstruction 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.

Section 9-1-9 Offensive Business

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain or carry on any other business or occupation offensive to the senses or prejudicial to the public health within the limits of the town.

Section 9-1-10 Offensive Premises

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him, 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.

Section 9-1-11 Prostitution

It is unlawful for any person to practice prostitution, to patronize a prostitute or to solicit any person to visit or patronize a prostitute or place of prostitution.

Section 9-1-12 Searchlights

It is unlawful for any person to operate within the town any incandescent or arc-type searchlight, beacon light or similar lighting device designed to and capable of projecting a beam of light into

the sky for a distance in excess of one-half mile unless permission is obtained from the council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

Section 9-1-13 Signs and Banners

It is unlawful for any person to place any banner or sign upon any streetlight pole, traffic signal pole or utility pole within the town without first obtaining authorization from the town and the owner of the pole.

Section 9-1-14 Spitting

It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the town or upon any public path, by-way or highway, or in or on any public ground or park in the town, or upon the floor or interior of any public building in the town.

Section 9-1-15 Water - Flow Upon Streets Prohibited

A. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town.

B. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him.

Section 9-1-16 Weapons

A. It is unlawful for any person within the limits of the town to fire or discharge any firearm, B-B gun, air gun, pellet gun, dart gun, slingshot, gas-operated gun or other similar gun or instrument except:

1. As allowed pursuant to the provisions of Title 13, Chapter 4 of the Arizona Revised Statutes.

2. By a law enforcement officer in necessary performance of his duty.

3. On a properly supervised range that is any of the following**:**

(a.) Operated by a club affiliated with the National Rifle Association Of America, the Amateur Trap Shooting Association, the National Skeet Association or any other nationally recognized shooting organization, or by any public or private school.

(b.) Approved by any agency of the federal government, this state or a county or city within which the range is located.

(c.) Operated with adult supervision for shooting air or carbon dioxide gas

operated guns, or for shooting in underground ranges on private or public property.

4. By special permit of the Town's chief of police.

5. To lawfully take wildlife during an open season, pursuant to rules established by Arizona Game and Fish Department. Hunting areas approved by the Arizona Game and Fish Department may be closed when deemed unsafe by the director of the department. However, a person shall not discharge a firearm within one-fourth mile of an occupied structure without the consent of the owner or occupant of the structure. For purposes of this paragraph only:

   (a.) "occupied structure" means any building in which, at the time of the firearm's discharge, a reasonable person from the location where a firearm is discharged would expect a person to be present.

   (b.) "open season" means the time during which wildlife may be lawfully taken (see A.R.S. 17.101(a)(15).

   (c.) "wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustations and fish, including their eggs or spawn, as further qualified by A.R.S. 17-101(b).

6. To control nuisance wildlife by permit from the Arizona Game and Fish Commissioner the United States Fish and Wildlife Service [and the taking of such animals or birds is properly supervised by The Arizona Game and Fish Department or the United States Fish and Wildlife Service or a person designated by the receptive agency to assure the safety of surrounding property owners].

7. As required by an animal control officer in the performance of duties pursuant to A.R.S. §9-499.04.

8. Using blanks.

9. More than one mile from any occupied structure. For the purpose of this paragraph only:

   "Occupied structure" means any building, object, vehicle, watercraft, aircraft or place with sides and a floor that is separately securable from any structure attached to it, that is used for lodging, business, transportation, recreation or storage and in which one or more human beings either are or are likely to be present or so near as to be in equivalent danger at the time the discharge of a firearm occurs. Occupied structure includes any dwelling house, whether occupied, unoccupied or vacant.

10. In self-defense or defense of another person against an animal attack if a reasonable person would believe that deadly physical force against the animal is immediately necessary and reasonable under the circumstances to protect oneself or the other person.

B. 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 weapon and place it in the

custody of the operator of the establishment or the sponsor of the event.

C. It is unlawful for any person to sell or give to a minor under the age of eighteen years, without written consent of the minor's parent or legal guardian, a weapon, ammunition or toy pistol by which dangerous and explosive substances may be discharged.

ARTICLE 9-2 GRAFFITI[1]

9-2-1 Definitions
9-2-2 Prohibition
9-2-3 Penalty
9-2-4 Removal of Graffiti by the Town

Section 9-2-1 Definitions

In this article, unless the context otherwise requires:

A. The term “graffiti” includes any inscription, word, figure or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on any surface, regardless of the nature of the material of that structural component, to the extent that the same was not authorized in advance by the owner thereof or, despite advanced authorization, is otherwise deemed by the council to be filth and debris and vandalism.

B. The term “graffiti instruments” includes any tool, instrument, article, substance, solution or other compound designed or commonly used to make graffiti under circumstances evidencing intent to place graffiti upon such property.

Section 9-2-2 Prohibition

A. No person shall make graffiti of any type on any building, public or private, or any other property real or personal, owned by any person, corporation, association, partnership or any public agency or instrumentality without the expressed written permission of the owner, manager, tenant or other person responsible for said property.

B. No person shall possess graffiti instruments in such a manner as to give rise to an inference of intent to make graffiti; and, no person shall possess a spray paint can in any public place including any building, park, facility or alley or on any private property where that person has no right to be unless possession is authorized or required as a part of a legitimate business or activity.

Section 9-2-3 Removal of Graffiti by the Town[1]

The town having determined that graffiti constitutes both vandalism and filth and debris does hereby compel the owner, lessee or occupant of buildings, grounds or lots to remove graffiti on the basis that its presence constitutes a hazard to public health and safety. The removal of the graffiti shall be accomplished according to the following provisions.

A. Upon determining that graffiti has been applied to any building or structure whether public or private within the town limits, the town shall cause a written notice to be sent to the

[1]Ordinance 51-94; Ordinance 425-08

owner, occupant or lessee. The written notice shall set forth the condition observed and shall give seven (7) days for compliance by removal of the graffiti from the building or structure.

B. Notice shall be by either personal service or certified or registered mail and if the building or premises is not occupied by the owner then notice shall be provided to the owner as indicated on the Maricopa County or Pinal County tax rolls, as appropriate.

C. If after seven (7) days from actual notice the owner or occupant or lessee has failed to remove the graffiti, the town may cause the graffiti to be removed and assess the costs of removal against the owner of the real property upon which the building or structure is located.

D. Notice of intent to go upon private property and to remove or abate the graffiti shall be given in the same manner as notice set forth in subsection A of this section. The notice of intent to go upon private property and remove graffiti shall also include the town's estimate as to the cost for the removal or abatement of the graffiti and that the actual amount of the cost shall be certified by the town and recorded in the office of the county recorder as a lien against the real property. Any owner, occupant or lessee who receives written notice to remove or abate graffiti or written notice that the town intends to enter upon private property to remove or abate the graffiti may appeal to the town council for a hearing on either the notice or the amount of the assessment. The appeal must be in writing and acts as a stay of all proceedings until such time as the council schedules a time, place and date certain for the hearing.

E. A prior assessment or lien for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes and any number of liens on the same lot or track of land may be enforced in the same action.

F. The lien upon real property authorized herein shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages, liens and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of the article shall be made upon judgment of foreclosure and order of sale. The town reserves the right to bring an action to enforce the lien in superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the lien by legal action shall not affect its validity.

G. The recorded assessment and lien shall be prima facie evidence of the truth of all of the matters recited therein and of the regularity of all proceedings prior to the recording thereof.

ARTICLE 9-3 STORAGE AND DISPLAY OF TOBACCO PRODUCTS[1]

9-3-1 Definitions
9-3-2 Violations

Section 9-3-1 Definitions

For the purposes of this Article, the following words and terms shall have the meaning ascribed thereto:

[1]Ordinance 132-98

A. “Person” means the state, the county, a political subdivision of the state, other governmental entities, a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. Person also includes a trustee, receiver, an assignee or similar representative.

B. “Tobacco product” means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

Section 9-3-2 Violations

A. No person who owns, conducts, operates or manages a business where tobacco products are sold, nor any person who sells or offers for sale tobacco products, shall store or display, or cause to be stored or displayed, such tobacco products in an area or manner that is accessible to the public without employee assistance.

B. A person is exempt from the requirements of this section if both:

1. The business where tobacco products are sold prohibits entry of individuals under the age of eighteen at all times; and
2. Photographic identification is required from any individual who appears to be twenty-six years of age or younger prior to entering the business where tobacco products are sold.

ARTICLE 9-4 PENALTIES

9-4-1 Enforcement Officers
9-4-2 Civil Offenses
9-4-3 Procedures
9-4-4 Criminal Penalties
9-4-5 State Law Penalties

Section 9-4-1 Enforcement Officers

Except as otherwise specifically provided in Chapter 9, any code enforcement officer, peace officer, or the town attorney or town prosecutor, may issue civil citations or complaints to enforce violations of this chapter.

Section 9-4-2 Civil Offenses

Except as otherwise specifically provided in this chapter, any person who fails to comply with requirements of Sections 9-1-1, 9-1-2, 9-1-7, 9-1-8, 9-1-9, 9-1-10, 9-1-12, 9-1-13, 9-1-15 or Article 9-3 of this chapter, or violates any of its provisions is guilty of a civil offense. Except as otherwise specifically provided, civil offenses shall be punished by imposition of a civil penalty in the amount of $250.00 for the first offense; $500.00 for a second offense in a 12-month period, and $2,000.00 for a third offense in said 12-month period. For purposes of calculating the 12-month period, such period shall begin on the date of the first offense.

Section 9-4-3 Procedures

Civil matters shall be tried before the civil hearing officer in accordance with the provisions of Chapter 5, Section 7 of this code. When appropriate, civil matters may also be tried before a justice of the peace or a county hearing officer.

Section 9-4-4 Criminal Penalties

Except as otherwise specifically provided herein, any person who violates a provision of this chapter for which a civil penalty is not prescribed upon first conviction shall be considered guilty of a petty offense and upon subsequent convictions shall be guilty of a class 1 misdemeanor.

Section 9-4-5 State Law Penalties

Nothing in this chapter 9 regarding civil penalties shall be interpreted or applied to prevent a law enforcement officer from imposing criminal penalties as provided by state law.

ARTICLE 9-5 AGGRESSIVE SOLICITATION[1]

9-5-1 Definitions
9-5-2 Prohibited Acts
9-5-3 Penalty

Section 9-5-1 Definitions

In this article, unless the context requires otherwise:

A. "Aggressive manner" means and includes either individually or as a group:

1.Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or

[1]Ordinance 574-15

2. Approaching or following the person being solicited, if the conduct is:

a. Intended to or is likely to cause a reasonable person to fear imminent bodily harm to oneself or another, or damage to or loss of property, or the commission of a criminal act upon the person or property in the person's possession; or

b. Intended to or is reasonably likely to intimidate a reasonable person being solicited into responding affirmatively to the solicitation; or

c. Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response to such solicitation; or

d. Intentionally, knowingly, or recklessly obstructing the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized

by a permit issued by the town, shall not constitute obstruction of pedestrian or vehicular traffic; or

e. Intentionally or recklessly using obscene or abusive language or gestures:

(1) Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person or property in the person's possession; or

(2) Intended to or is reasonably likely to intimidate a reasonable person into responding affirmatively to the solicitation.

B. "Automated teller machine" means a device, linked to a financial institution's account records, which is able to carry out transactions including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

C. "Automated teller machine facility" means the area comprised of one or more automated teller machines and any adjacent space which is made available to banking customers after regular banking hours. It shall be presumed that any automobile parking space within twenty-five (25) feet of an automated teller machine is part of the automated teller machine facility to provide access to bank customers.

D. "Bank" means a bank, credit union, or other similar financial institution.

E. "Public area" means an area to which the public or a substantial group of persons has access and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

F. "Public transportation vehicle" means any vehicle used for the transportation of passengers on scheduled routes on an individual passenger fare-paying basis.

G. "Solicit" means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.

Section 9-5-2 Prohibited Acts

It shall be unlawful for any person or group to solicit money or other things of value, or to solicit the sale of goods or services:

A. In an aggressive manner in a public area; or

B. In any public transportation vehicle or from any persons within fifteen (15) feet of any transit stop, bus stop, taxi stand, train station platform or the inside of the train station, except that the operator of a public transportation vehicle may request or accept payment of a fare; or

C. Within fifteen (15) feet of any entrance or exit of any bank or automated teller machine facility, without the consent of the owner or other person legally in possession of such facility; or

D. Immediately adjacent to the entrance of a business in a manner that physically interferes with ingress or egress to that business entrance.

Section 9-5-3 Penalty

A violation of this Section 9-5 shall be a class 1 misdemeanor.

CHAPTER 10 HEALTH AND SANITATION

ARTICLE 10-1 METHODS OF GARBAGE AND TRASH REMOVAL

10-1-1 Hauling Refuse
10-1-2 Vehicles and Receptacles to be Spill Proof
10-1-3 Spilled Refuse
10-1-4 Dumping Refuse

Section 10-1-1 Hauling Refuse[1]

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue or alley in the town, in violation of any of the provisions in this chapter.

Section 10-1-2 Vehicles and Receptacles to be Spill Proof

It is unlawful for any person to haul or cause to be hauled on or along any public street in the town any garbage, unless such garbage is contained in strong, watertight vehicles or vehicles with watertight receptacles, constructed to prevent any such garbage from falling, leaking or spilling and any odor from escaping.

Section 10-1-3 Spilled Refuse

Any person hauling any refuse along the streets of the town shall immediately replace in the conveyance used for such hauling any refuse which may fall upon any street.

Section 10-1-4 Dumping Refuse

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the town, except in public dumping grounds designated by the council.

[1]Ordinance 117-97

ARTICLE 10-2 NUISANCE PROCEDURES AND REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH, DEBRIS AND DILAPIDATED STRUCTURES [1]

10-2-1 Public Nuisance: Purpose and Scope
10-2-2 Authority to Enforce Nuisance Standards
10-2-3 Rules and Regulations
10-2-4 Jurisdiction
10-2-5 Recording a Notice of Violation
10-2-6 Inspections
10-2-7 Nuisance Enforcement Procedure
10-2-8 Denial, Suspension or Revocation of Business License
10-2-9 Withholding of Permits
10-2-10 Court-Ordered Nuisance Abatement and Injunction
10-2-11 Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures on Property
10-2-12 Owner to Maintain Premises

Section 10-2-1 Public Nuisance: Purpose and Scope

A. The purpose of this Chapter 10: Health and Sanitation and the regulations contained therein including the provisions of Articles 10-1; 10-2; 10-3; 10-4; 10-5; 10-6; and 10-7 is to promote the health, safety and welfare of the Town of Queen Creek and its residents, and to protect neighborhoods against physical, visual and economic deterioration. To that end, it is a violation of this chapter to erect, maintain, use, place, deposit, cause, allow, leave or permit to remain on any property any conditions that:

1. Contribute to or cause injury or endangerment to the health, safety or welfare of others;
2. Are contrary to community standards of decency;
3. Are offensive to the senses of any reasonable person or normal sensitiveness;
4. Unlawfully interfere with, obstruct or tend to obstruct or render dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, trail, path, street or highway in the Town;
5. Obstruct the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by the public;
6. Damage or contribute to the deterioration of property or improvements in the community; or
7. Are nuisances as defined in this chapter, including but not limited to, Article 10-2 Nuisance Procedures and Removal of Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures and/or Article 10-3 Litter; Nuisances.

B. Except as otherwise provided, this chapter shall apply to all land within the Town of Queen Creek without regard to the use or occupancy or date of construction, improvement, acquisition or annexation.

Section 10-2-2 Authority to Enforce Nuisance Standards

A. The Town Manager or designee shall enforce the provisions of this chapter. The Town code enforcement officer, in coordination and cooperation with such other town officials as have been designated by the Town Manager or by code or regulation adopted by the Town, is hereby authorized and directed to enforce all provisions of this chapter.

[1] Ordinance 486-10; 564-15

B. In enforcing this chapter, the code enforcement officer, or other designated town official, may take one(1) or more of the following actions:

1. Informal intervention with the responsible party.

2. Where the violation is on public property, such as noncompliant posting of signs in a public right-of-way, take summary action to remove the violation and, may, serve notice of the action or written warning, issue a citation and/or prepare and serve a long-form complaint on the responsible party.

3. Issue a notice of violation to the responsible party in accordance with the procedures set forth in this article.

4. Issue a criminal or civil citation, pursuant to Queen Creek Town Code, to the responsible party in accordance with the procedures set forth in this article.

5. File a long-form complaint for criminal or civil penalties, pursuant to Queen Creek Town Code, with the Town of Queen Creek Municipal Court against the responsible party in accordance with the procedures set forth in this article.

6. In the case of an imminent hazard or a building or structure which is unfit for human habitation, with the concurrence and approval of the Town Manager, take emergency remedial action or issue an order to vacate the property in accordance with the procedures set forth in the Queen Creek Town Code and/or applicable Building Codes.

C. No person shall, by threat or use of violence or physical force, or by threatening to do or doing any other act that can be reasonably anticipated to cause physical harm to any person including the perpetrator, intentionally obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the Town who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this chapter.

D. The code enforcement officer, or other designated town officer, may expand the scope of any inspection to include other Town Code violations noted during inspection.

E. All inspections shall be conducted in compliance with the Constitutions of the United States and the State of Arizona.

F. The authority of the code enforcement officer to enforce the provisions of this chapter is independent of and complementary to the authority of other town officials to enforce the provisions of any other statute, code or regulation. The remedies provided for in this chapter are cumulative and in addition to any other remedies established by law, and this chapter shall not be interpreted as limiting the penalties, actions or abatement procedures which may be taken by the Town or other officials under other laws, ordinances, or rules.

Section 10-2-3 Rules and Regulations

The Town Manager, or designee, is authorized to make reasonable and necessary administrative rules and regulations to carry out the provisions of this chapter.

Section 10-2-4 Jurisdiction

A. Unless otherwise specified, the Queen Creek Municipal Court shall have jurisdiction of all proceedings to enforce this chapter.

B. Civil actions to enforce this chapter may be adjudicated by a judge or a Civil Hearing Officer.

C. The Municipal Court of the Town of Queen Creek shall have jurisdiction to issue orders permitting the town to abate conditions that constitute a violation of the provisions of this chapter. The Municipal Court may retain jurisdiction over any matter to abate conditions that constitute a violation of this chapter until the violation is abated in full.

Section 10-2-5 Recording a Notice of Violation

The town may record a notice of violation with the Office of the County Recorder. A recorded notice of violation shall run with the land and shall constitute notice, for all purposes of this chapter, to all persons or entities thereafter acquiring an interest in the property. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice. When the property is brought into compliance, if a notice of violation was recorded, a satisfaction of notice of violation shall be recorded.

Section 10-2-6 Inspections

A. The code enforcement officer or other town official as designated by the Town Manager, or by code or regulation adopted by the town, is hereby authorized to make inspections for violations of this chapter in the normal course of the job duties or in response to a citizen complaint when there is reason to believe that a violation of this chapter has been or is being committed and where necessary to certify compliance with an enforcement action.

B. In order to investigate possible violations or to determine compliance with this chapter, private property may only be entered with the consent of the owner or occupant. If consent is denied or cannot be obtained, private property may be entered with an administrative warrant/order issued by a court of competent jurisdiction.

Section 10-2-7 Nuisance Enforcement Procedure

A. Nuisance Enforcement –In General

As more fully described in this article and hereafter, and after appropriate or necessary investigation, documentation and inspection, the code enforcement officer, or other designated town official, may take one (1) or more of the following actions:

1. Informal mediation or intervention with the responsible party
2. Summary action to remove the violation, accompanied by appropriate notice, warning or enforcement action.
3. Issue a notice of violation.
4. Issue a criminal or civil citation.
5. File a long-form complaint for criminal or civil penalties.
6. Take action for abatement or vacation of premises.

B. Informal Mediation or Intervention and Summary Action

1. Informal mediation or intervention. Whenever in the judgment of the code enforcement officer, or other designated official, action short of formal citation or notice of violation is likely to achieve satisfactory and timely compliance, informal intervention, including written and verbal communication, may be used. The

[1] Ordinance 486-10; 564-15

Town Manager and code enforcement officer shall promulgate criteria for informal intervention and procedures for documentation and recordkeeping.

2. Summary action. Where obvious and elemental violations occur and entry onto private property is not necessary for enforcement, e.g., in the case of illegal posting of advertising in public rights-of-way, the code enforcement officer, or other designated official, may remove or summarily abate the violation. In such cases, evidence of the violation shall be forwarded to the code enforcement officer, or other appropriate official for identification of the responsible party and additional enforcement.

C. Notice of Violation

1. Upon reasonable belief that a violation of this chapter has occurred, the code enforcement officer, or other designated official, may notify the owner, owner's agent, or responsible party, through the issuance of a written notice, that a violation of this chapter has occurred and must be corrected and/or removed from the property.

2. The notice of violation shall set forth the following information:

   a. Identification of property in violation. If the notice includes an abatement action, it shall include a legal description of the property and street address, if known, and if unknown, then by book, map and parcel number;

   b. Statement of violation in sufficient detail to allow an owner or responsible party to identify and correct the problem along with legal citation(s) of applicable code, statutory or regulatory provision(s);

   c. The period of time, not less than thirty (30) days from the mailing of the notice, the responsible party is given to comply;

   d. Name, business address and business phone number of the code enforcement officer and/or other town official who issued the notice;

   e. Proposed reinspection date, if any;

   f. If the notice includes an abatement action, a cost estimate to correct the violations and legal description of the property;

   g. A warning statement that if the violations are not corrected within the period stated, the town may abate the nuisance itself or by private contractor, assess the owner or responsible party for the cost of such abatement including an administrative charge of ten (10%) percent, and record a lien on the property for assessment; and

   h. Notice of the right and procedure for appealing the action.

3. Any notice given for any purpose under this chapter shall be provided, in writing, to the owner, the owner's authorized agent or the owner's statutory agent, lien holder and to the occupant or lessee. The notice given for any purpose under this chapter shall be deemed effective on the date when written notice is personally served in the same manner as provided by the Arizona Rules of Civil Procedure or mailed certified mail return receipt requested. If notice is served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill for the property was last mailed. The notice shall be given not less than thirty (30) days before the day set for compliance and shall include the legal description of the property and the cost of such removal to the town if the

owner, occupant or lessee does not comply. The owner shall be given not less than thirty (30) days to comply. Nothing herein shall preclude the town from giving additional verbal or written notice at its discretion and the Town Manager and code enforcement officer may promulgate criteria for informal intervention and procedures for documentation and recordkeeping.

4. Nothing in this section shall require the issuance of a notice of violation prior to commencement of other enforcement proceedings, including civil or criminal proceedings.

5. Thirty (30) calendar days after service of the notice as provided herein, the owner or responsible party shall be jointly and severally liable for any and all reasonable charges incurred by reason of the Fire Department being required to respond to the property not abated as required by the notice. When incurred, such charges shall be treated in the same manner and be subject to the same rights of appeal as charges incurred in bringing the property into compliance.

D. Nuisance Abatement.

1. Civil Hearing Officer Authorized. When a person is served with a notice to abate in accordance with A.R.S. § 9-499 to comply with the provisions of this chapter concerning matters within the scope of A.R.S. § 9-499 and neglects, fails or refuses to abate a violation for more than thirty (30) days from the effective date of the notice, a Civil Hearing Officer may hold an administrative hearing pursuant to the notice regarding whether an order should be entered authorizing the Town Manager or designee to abate any condition that constitutes a violation. The Civil Hearing Officer, after the hearing (or time for hearing should the person fail to appear) shall enter such rulings and orders which it determines to be appropriate including an order authorizing the town to abate the condition, including the authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order. Decisions by the hearing officer shall be based upon a preponderance of the evidence. The hearing officer shall issue findings in writing, upholding, modifying or reversing the notice.

2. Order of Abatement. A copy of the order of abatement shall be posted upon the subject property. The order shall be sent by certified mail to the owner, lien holder, occupant or lessee at their last known address or most recent address to which a tax bill was mailed. If the owner does not reside on the property, a duplicate order shall also be sent to the owner at the owner's last known address.

3. Notice Appeal. Any person aggrieved by a decision of the Civil Hearing Officer regarding the notice may appeal to the Town of Queen Creek Town Council. The aggrieved person(s) may appeal by delivering a written statement of appeal to the Town Clerk within ten (10) business days, excluding weekends and legal holidays, after service of the notice and order to abate is complete. The town shall take no action to abate a nuisance while an appeal is pending. The appeal shall be heard and a determination made by the Town Council at its next regular meeting or within five (5) days, whichever time is greater. The council may affirm, vacate, or modify the notice and order to abate. The decision of the council is final and binding. If the notice and order to abate is affirmed and the council does not modify the time for compliance, the time for compliance as set forth in the original notice shall run from the time service of the notice was first completed. If no timely statement of appeal is made, then the notice and order to abate becomes effective when the time for appeal lapses. The town is

[1] Ordinance 486-10; 564-15

authorized to record the notice and order to abate with the appropriate County Recorder's Office and proceed with abatement. This appeal process does not apply if the removal or abatement is ordered by a court.

4. Abatement by the Town and Final Notice. When the time for compliance as set forth in the notice and order to abate, or as set by the Town Council on appeal, has lapsed, the town may abate the nuisance or cause it to be abated. A final notice giving the responsible party five (5) days to abate the nuisance shall be delivered in the same manner as set forth in this section. If the responsible party has not complied within five (5) days, the town may proceed with abatement. After five (5) days have elapsed from the date of issuance of the Order of Abatement, the town, its employees or contractors are authorized to enter upon the property and remove all rubbish, trash, weeds, filth, debris, blight or dilapidated structures or other violations under this chapter from any lot, parcel or tract.

5. Order of Assessment.

   a. Within thirty (30) days after the town, its employees or contractors have removed, enjoined or abated the rubbish, trash, weeds, filth, accumulations, debris, blight or dilapidated structures or other violations under this chapter from any lot, parcel or tract, the town shall issue a written order of assessment on the property. The order shall list the date, common address, legal description of the property, tax parcel number of the property and that the Town of Queen Creek is the authority issuing the assessment. The order shall also list the date and actual cost of assessment, a ten percent (10%) surcharge levied by the town, and the total cost of assessment, including the cost of removal, abatement or injunction and associated legal costs for abatement or injunctions. The order shall indicate that the entire cost is due and payable in full within thirty (30) days from the date of issuance of the order, and that the assessment will become delinquent on that date. The order shall be signed by the Town Manager or her/his designee and shall be recorded in the office of the County Recorder in which the property is located.

   b. The order of assessment shall also contain the following notice in bold face print: NOTICE: THIS ORDER OF ASSESSMENT PURSUANT TO A.R.S.§ 9-499 SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF THE TOWN OF QUEEN CREEK, ARIZONA. THE TOWN MAY TAKE LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS INDICATED IN THE ORDER OF ASSESSMENT.

   c. Assessment Appeal. The order of assessment shall indicate that the owner, lessee or occupant shall have ten (10) business days, excluding weekends and legal holidays, from the date of issuance to appeal the amount of the assessment levied by the town by delivering a written statement of appeal to the Town Clerk. The date of mailing the order shall be the date of issuance. All appeals of order of assessments shall be in writing and shall specify the grounds for appeal of the assessment. Only the amount of the assessment may be appealed. The appeal may be filed with the appeal fee provided in the Town Code, and failure to pay the required fee shall result in the appeal not being filed and deemed invalid. This appeal process does not apply if the removal or abatement is ordered by a court.

d. The Civil Hearing Officer shall hear the appeal within fifteen (15) days after receipt. Written notice of the hearing shall be provided to the appropriate town departments and to the owner, occupant or lessee. The Civil Hearing Officer, after the hearing (or time for hearing should the person fail to appear) shall enter such rulings and orders, which it determines to be appropriate upholding or modifying the amount of the assessment. The hearing officer's decision shall determine, based upon a preponderance of the evidence, whether the assessment was made in accordance with the provisions of this ordinance and whether the amount assessed actually covers the costs incurred by the town.

e. The owner, lessee or occupant may appeal a decision of the Civil Hearing Officer to the Town of Queen Creek Town Council pursuant to the same process of appeal for a notice and order to abate as set forth in this section above. The decision of the council, if a valid appeal is filed, is final and binding.

f. The order of assessment shall provide that any delinquent assessments shall bear interest in the same manner as delinquent utility bills at a rate prescribed by A.R.S. § 44-1201, as amended from time to time.

g. A prior assessment under this chapter is not a bar to subsequent assessments under this chapter and any number of liens imposed pursuant to this chapter may be enforced in the same action.

h. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the assessment is affirmed, the original assessment or the assessment as so modified shall be recorded in the office of the county recorder and, from the date of its recording, shall be a lien on said lot or tract of land until paid. Such liens shall be prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy a lien obtained under the provisions of this chapter shall be made upon judgment of foreclosure or order of sale. The town shall have the right to bring an action to enforce the lien in the superior court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this chapter shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

i. Assessments that are imposed as set forth herein run against the property until paid and are due and payable in equal annual installments as follows:

   a) Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.

   b) Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.

   c) Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.

[1] Ordinance 486-10; 564-15

d) Assessments of five thousand dollars or more but less than ten thousand dollar shall be paid within six years after the assessment is recorded.

e) Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded

E. Nuisance; abatements; assessments; lien enforcement. The Finance Division shall maintain a list of all delinquent assessments made pursuant to this ordinance.

1. All assessments sixty (60) days delinquent shall be forwarded to the Town Manager and Town Attorney for review. If the Town Manager and Town Attorney determine that the value of the assessment(s), surcharges and interest, together with the value of all other liens having priority over the assessment, does not exceed the value of the property, the Town Attorney may commence legal action to foreclose the lien and request the Superior Court to order the property sold and the proceeds used to pay off all liens having priority, the assessment, surcharges and interest.

2. If the Town Manager and Town Attorney determine that the value of the assessment, surcharge and interest, together with the value of all other liens having priority over the assessment, exceeds the value of the property, the Town Attorney need not commence legal action to foreclose the lien. The Town Manager may negotiate on the Town's behalf with parties holding liens which have priority on the property. Any agreement waiving part or all of an assessment, surcharge and interest shall be approved by the Town Council.

3. Upon payment in full of an assessment, surcharge and interest or upon waiving of an assessment, surcharge and interest in full by the Town Council, the town shall record a notice of satisfaction of assessment in the Office of the County Recorder in which the property is located. The notice shall contain the name of the owner of the property, the tax parcel number of the property, the common street address, and the legal description of the property. The notice shall refer to the date of the order of assessment and the docket and page number in the Office of the County Recorder where such order is recorded.

F. Collection of assessments. The Town Manager shall be authorized to collect assessments imposed pursuant to this chapter in the same manner and method as delinquent utility bills and license taxes. No utility service shall be commenced on any property having delinquent assessments, surcharges and interest from an assessment levied pursuant to this chapter until the assessment, surcharges and interest have been paid in full. No business license or sales tax license shall be issued for a business on any property having delinquent assessments, surcharges and interest from an assessment levied pursuant to this chapter until the assessment, surcharges and interest have been paid in full.

G. Public services revolving account. The public services revolving account within the town's general fund is established, consisting of monies collected from payments on assessments levied under this chapter, surcharges on fines, and such other funds as the town council may appropriate. The finance director shall administer the account. All expenditures from the account shall comply with provisions of this code and any administrative regulations and policies governing expenditures of the town. The public services revolving account may be used to advance the costs for the removal of rubbish, trash, weeds, filth, accumulations, debris, blight or dilapidated structures, or other violations of this chapter, from any lot, parcel or tract pursuant to this chapter.

H. Nuisance; transfer of property after notice. The transfer of any and all property interest in any manner including but not limited to sale, trade, lease, gift or assignment of any

real property against which a notice of violation has been issued shall not relieve the party(s) served unless the legal entity assuming an ownership interest in the property, in writing assumes responsibility for compliance with the notice of violation and a copy of such writing is provided to the town. If a violation of this chapter exists on the property at the time legal ownership has been transferred and the entity assuming an ownership interest in the property is provided with notice of the violation, such entity shall also be liable for violation as a successor owner of the property.

Section 10-2-8 Denial, Suspension or Revocation of Business License

A business license application shall be denied where it is determined that a nuisance exists on the property for which the application is made and the applicant fails to abate the nuisance within five (5) days after verbal or written notice thereof.

The Town Manager is authorized to suspend or revoke any business license issued pursuant to the Queen Creek Town Code if it is determined that the licensee causes, permits or maintains or allows the creation or maintenance of a nuisance under this chapter upon the licensed property. Suspension or revocation of the business license shall be in addition to any other remedy available to the town.

Section 10-2-9 Withholding of Permits

From the date a notice and order to abate expires without compliance by the responsible party until the nuisance is abated or the city's costs of abatement are reimbursed (whichever occurs later), the Town may withhold or suspend any permit or approval of any alteration, repair, or construction of any existing or new structure or sign on the property, as well as any permit or approval pertaining to the use or development of the property; provided, however, that no permit or approval necessary to correct the nuisance conditions shall be withheld.

Section 10-2-10 Court-Ordered Nuisance Abatement and Injunction

A. In addition to any other abatement procedure provided in this chapter, the Town Manager or designee, Town Attorney or Town Prosecutor, in the name of the Town of Queen Creek, may apply to the Municipal Court for an order permitting the Town to abate any condition that constitutes a violation of this chapter. The Town may also seek injunctive relief.

B. After notice to the owner and any responsible party, the judge or court hearing officer shall conduct a hearing. The hearing shall be informal and open to the public. Evidence may be taken from any interested party and considered in determining whether a condition in violation of this chapter exists and what, if any, abatement action should be permitted. Any person who fails to appear after notice of the hearing may be deemed to have waived any right to introduce evidence. The court's determination shall be based on the preponderance of evidence.

C. Upon finding that abatement and/or injunctive relief is appropriate, the court may order demolition, board-up, clean-up or any other action the court deems reasonably necessary to correct or enjoin the violation.

D. The reasonable costs of any abatement, including reasonable attorneys' fees and associated legal costs, permitted by the court's order shall be the responsibility of the owner and responsible party and may be collected by the Town.

[1] Ordinance 486-10; 564-15

Section 10-2-11 Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures on Property

It is unlawful for any person to throw, deposit, maintain or allow to be maintained, any rubbish, trash, weeds, filth, debris and dilapidated structures on any occupied or unoccupied private or public property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for rubbish, trash, weeds, filth, debris and dilapidated structures in such a manner that rubbish, trash, weeds, filth, debris and dilapidated structures will be prevented from being carried or deposited by the elements upon any public place. In addition to any criminal penalty which may be imposed for violation of any provisions of this article, such person shall be liable for all costs which may be assessed pursuant to this article for the removal of said rubbish, trash, weeds, filth, debris and dilapidated structures.

Section 10-2-12 Owner to Maintain Premises

The owner or person in control of any private property shall at all times maintain the premises free of rubbish, trash, weeds, filth, debris and dilapidated structures; provided that this section shall not prohibit the storage of rubbish, trash, weeds, filth and debris in suitable containers.

ARTICLE 10-3 LITTER; NUISANCES [1]

10-3-1 Definitions
10-3-2 Public Nuisances Defined
10-3-3 Litter in Public Places; Construction Debris
10-3-4 Depositing Litter in Gutters
10-3-5 Litter Thrown from Vehicles
10-3-6 Littering from Trucks
10-3-7 Littering in Parks
10-3-8 Deposit of Commercial Handbills on Public Property
10-3-9 Handbills: Commercial and Non-Commercial
10-3-10 Dropping Litter from Aircraft
10-3-11 Deposit of Litter on Occupied Private Property
10-3-12 Maintenance of Litter-Free Premises
10-3-13 Vacant Lots
10-3-14 Business Establishments - Receptacles
10-3-15 Unsightly Premises
10-3-16 Abatement of Nuisances
10-3-17 Penalties

Section 10-3-1 Definitions

In this chapter, unless the context otherwise requires:

A. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air, and includes, but is not limited to, helicopters and lighter-than-air dirigibles and balloons.

B. "Abandoned Structure" means a vacant structure, characterized by blight, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property.

C. "Animal" means any and all types of animals, domestic and wild, male and female, singular and plural.

D. “Authorized private receptacle” means a litter storage and collection receptacle as required and authorized in this article.

E. “Blight or Blighted” means unsightly conditions including accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, characterized by uncontrolled growth, lack of maintenance or damage; buildings, structures, whether main or accessory characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, excessive use or lack of maintenance; other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.

F. “Building” means any structure designed for occupancy including mobile homes, manufactured homes, factory-built buildings, and like property for which taxes may be assessed.

G. “Commercial handbill” means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed, or otherwise reproduced original or copies of any matter or literature:

1. Which is not defined as in this chapter as either a newspaper or a non-commercial handbill; and

2. Which advertises for sale any merchandise, product, commodity or thing; or

3. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

4. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. The terms of this paragraph shall not apply when an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when in either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Nothing contained in this paragraph shall be derived to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this town; or

5. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

H. “Debris” means junk, abandoned broken or neglected lumber, furniture, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, vehicles, car parts, equipment or the remains of something of little or no apparent economic value.

I. “Deteriorated or deterioration” means a lowering in quality of the condition or appearance of a building, structure or premises, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

J. “Dilapidated structure” means any unsightly and dangerous structure as defined by the Uniform Code for the Abatement of Dangerous Buildings, 1994 edition Section 302 or any unsafe building or structure defined by the Uniform Building Code, 1994 edition,

[1] Ordinance 486-10; 564-15

Section 102, or any old, abandoned or partially destroyed structure, or any structure commenced and abandoned.

K. "Filth" means any accumulation of garbage, junk or litter, or any condition which constitutes a breeding place for flies, rodents, mosquitoes and other insects or animals which are capable of carrying and transmitting disease-causing organisms to any person or persons, any spoiled or contaminated food or drink intended for human consumption, or all sewage, human or animal excreta, wastewater, garbage or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.

L. "Fowl" means any and all fowl, domesticated and wild, male and female, singular and plural.

M. "Garbage" means the accumulation of spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals as well as other organic waste material subject to rapid decomposition.

N. **"**Graffiti" means initials, slogans, designs or drawings, written, spray-painted, etched, sketched or otherwise applied on a sidewalk, wall, building, fence, sign, or any other structure or surface without consent of the owner and visible from a public right-of-way.

O. "Grass" includes, but is not limited to, Barnyard grass, Bermuda grass, Bluegrass, Brome grasses, Crab grass, Foxtail, Johnson grass, Ragweed, Rye grass, wild oats, or hybrids thereof.

P. "Handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of any matter or literature which advertises for sale any business, product, commodity or thing; directs attention to any business or establishment for the purpose of either directly or indirectly promoting the interest thereof; or which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind.

Q. "Hazard" means any condition that presents a risk to the safety of any person or adversely affects or jeopardizes the health or well-being of any person or endangers property. Such conditions include, but are not limited to, occupancy without adequate water or sanitation facilities, accumulation of human or animal waste, presence of medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal or decay matter.

R. "Hazardous wastes" means any chemical, compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous waste" as defined in 40 Code of Federal Regulations Section 261.1 through 261.33, as and if amended, except that, for purposes of this ordinance hazardous waste shall include household waste as defined in 40 Code of Federal Regulations Section 261.4B.1.

S. "Junk" means items that in their present state are of little or no apparent economic value, that are not confined within an industrial area in compliance with the zoning ordinance, including, but not limited to an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper or machinery parts; inoperative machinery or appliances; building material wastes; litter or discarded or empty containers. Junk also includes all types of solid waste described in the Town of Queen Creek Town Code.

T. "Land" means all land in the Town of Queen Creek, whether improved or unimproved.

U. “Litter” means any filth, debris and weeds which constitute a hazard to public health and safety and shall include, without limitation, any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish, ashes, street cleanings or other unsightly and unsanitary matter of any kind whatsoever, any other matter defined as “refuse” in this chapter, and any growth of weeds higher than six inches.

V. “Major repair” means the removal from any vehicle of a major portion thereof, including, but not limited to, the differential, transmission, head, engine block or oil pan.

W. “Newspaper” means a publication regularly issued for dissemination of current news, matters of general interest and local happenings at stated short intervals of time whether such publication is distributed by paid subscription or for free. Such publication shall be from a known office of publication and shall bear the dates of issue and shall be numbered consecutively.

X. “Non-commercial handbill” means any printed or written matter, any sample or device, circular, leaflet, pamphlet, magazine paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the definitions of a commercial handbill or a newspaper.

Y. “Owner” means a person, persons or legal entity listed as current title holder as recorded in the official records of the County Recorder’s Office.

Z. “Owner’s agent” means a statutory agent designated pursuant to A.R.S.§ 33-1902 as and if amended.

AA. “Park” means a park, reservation, playground, recreation center or any other public area in the town owned or used by the town and devoted to public recreation.

BB. “Person” means a human being, enterprise, corporation, association, partnership, firm or society.

CC. “Pond” means an in-ground body of water that is at least eighteen inches deep and eight feet or greater in any dimension. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.

DD. “Private property” or “private premises” means 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, and includes but is not limited to any yard, grounds, walk, driveway, porch, steps, vestibule or mail box belonging or appurtenant to such dwelling, house, building or other structure.

EE. “Property” means and includes buildings, grounds, lots and tracts of land.

FF. “Property used for agricultural purposes” means property of not less than ten contiguous acres which:

1. The primary use of the property is as agricultural land and the property has been in active production in conformance with generally accepted agricultural practices for at least two of the five prior years; and

2. There is a reasonable expectation of operating profit, exclusive of land cost, from the agricultural use of the property.

GG. “Public place” means any and all streets, sidewalks, boulevards, alleys, rights-of-ways or other public ways and any and all public parks, squares, spaces, grounds and buildings.

HH. “Refuse” means all putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, dead animals, abandoned, wrecked or junked vehicles or parts thereof and solid market and industrial wastes.

[1] Ordinance 486-10; 564-15

II. "Responsible Party" means any owner, occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land; and in the case where the demolition of a structure is proposed as a means of abatement, any lienholder whose lien interest is recorded in the official records of the County Recorder's Office.

JJ. "Rubbish" means non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, metal cans, yard clippings, leaves, metal, wood, glass, bedding, crockery and similar materials.

KK. "Streets or road" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and includes the whole right-of-way of the public entity maintaining said way, whether such right-of-way is paved or not.

LL. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and includes buildings, improvements and other structures that are constructed or placed on land.

MM. "Trash" means any accumulation of refuse, rubbish, litter or garbage.

NN. "Unsecured structure" means any structure that is vacant with a damaged or open door, window, or other opening not secured in accordance with Town standards to prevent unauthorized entry.

OO. "Vacant structure" means any unoccupied or an illegally occupied structure or any occupied structure without adequate facilities/utilities which is empty or remains empty and is not continuously maintained for twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to said property; or any structure which exhibits dilapidated walls, windows, roof or doors which will fail to prevent the entry of a trespasser.

PP. "Vehicle" means every device in, upon or by which, any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks, except for a device propelled solely by human power.

QQ. "Weeds" means a useless and troublesome plant generally accepted as having no value and frequently of uncontrolled growth. Any vegetation which is, or is likely to be, detrimental, destructive or unsightly and difficult to control or eradicate, including but not limited to bull thistle, cocklebur, foxtail, horseweed, lambsquarters, london rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, Russian thistle, shepardspurse, sow thistle, white horse nettle, willow weed and those types of plant growth defined as noxious weeds by A.R.S.§ 3-201 regardless of whether a particular property owner or occupant who is the subject of enforcement action under this Chapter regards the growth as desirable.

Section 10-3-2 Public Nuisances Defined

In combination with Article 10-2, acts, omissions, conditions and things in or upon any land, property, private lot, building, structure or premises, or in or upon any public right-of-way, wash, street, avenue, alley, park, parkway or other public or private place in the town which are injurious to the public health, safety and general welfare, which interfere with the comfortable enjoyment of life or property by any person, or which unlawfully obstruct the free passage or use of any public park, wash, square, alley, sidewalk, street or highway are hereby declared to be public nuisances, including, but not limited to the following:

A. Privies, vaults, cesspools, sumps, pits or like places which are not securely protected from insects or rodents, or which are foul or malodorous, or which are not securely

closed and protected or, if necessary, illuminated so as to prevent persons or objects from falling therein. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

B. Filthy, littered or trash-covered exterior areas, including all buildings and structures thereon and areas adjacent thereto.

C. Animal manure in any quantity which is not securely protected from insects and the elements, or which is kept or handled in violation of any ordinance of the town or Maricopa County. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

D. Poison oak, poison ivy, or any noxious or toxic weeds or uncultivated plants (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth higher than six inches or which present a fire hazard. All exterior property areas shall be kept free from dry vegetation, tumbleweeds, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations and dry vegetation, or which may likely become a fire hazard, or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants.

E. Accumulations of bottles, glass, cans, ashes, scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other trash and abandoned material, unless the same be kept in covered bins or metal receptacles approved by this code or any town ordinance. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

F. Accumulations of trash, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing straw, packing hay or other packing material, lumber, scrap iron, tin and other metal, or anything whatsoever in which insects may breed or multiply or which provides harborage for rodents or which may create a fire hazard. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

G. Any unsightly and dangerous building, billboard or other structure, or any old abandoned or partially destroyed building or structure, or any building or structure commenced and abandoned.

H. All places used or maintained as junk yards or dumping grounds, or for the wrecking, dissembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to interfere with the comfortable enjoyment or the quality of life or property by and of others; provided, however, that nothing contained in this subsection shall be deemed to prohibit any automobile wrecking yard or other junk yard where the same is otherwise permitted by the town zoning ordinance and amendments thereto, which is operated in conformity therewith. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

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I. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human or animal excreta, sewage or other offensive substances accumulated on private or public property; provided, however, nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner provided by a county health officer, this code or ordinance of the town.

J. The erection, continuance or use of any building, room or other place in said town for the exercise of any trade, employment or manufacture which, by noxious exhalations, including, but not limited to, smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, which is discomforting or offensive or detrimental to the health of individuals or of the public, except for normal exhalation or smoke produced by normal heating devices. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

K. Causing, allowing or permitting any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by any considerable number of people, with the lawful use of any school, public place or public street, with any governmental or public function of the town, or as to constitute a hazard or threat to the public health, safety and welfare of the people of the town; provided, however, this subsection shall not apply where the person responsible for said artificial illumination is authorized by the town manager, any school within the town, this code or any ordinance of the town. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

L. Burning of refuse. No outside burning is allowed except when such burning is necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

M. Any unguarded or abandoned excavation, pit, well or hole which is dangerous, injurious or harmful to life or property.

N. To leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under the control of any person and in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, unless such icebox, refrigerator or other container is properly stored by first removing said door or lid, snap lock or other locking device from said icebox, refrigerator or container.

O. The doing of any act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or other thing either:

1. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, street or highway in the town and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal.

2. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by an entire community or neighborhood or by a considerable number of persons.

P. To leave or permit to remain overnight in the front yard of any private premises, construction equipment whether free standing or on one or more axles; or to store overnight in the front yard of any private premises, any building materials whether free standing or on pallets or skids, when such equipment or materials are not for use at the

premises or stored pursuant to a valid and current building permit issued by the town for work at that premises. Equipment and materials may be stored in the side yard area of any private premises so long as they are screened from public view by an opaque wall, fence or other permitted screen. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

Q. Any dangerous, deteriorated, abandoned, partially destroyed or unfinished building, addition, appendage or other structure, or any building or structure in violation of the uniform building codes as adopted by the town, and any vacated or abandoned building not securely closed at all times; any abandoned structure, unsecured structure or vacant structure; any wood, metal or other material used for securing structures and buildings must be compatible with the color of the building or structure.

R. All land shall be maintained so as to prevent a pond or the accumulation of stagnant water when such pond or water causes a hazardous or unhealthy condition, becomes a breeding area for insects, or which is causing soil erosion or damage to foundation walls. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.

S. Any condition defined or deemed to be a nuisance or hazard to the public health, safety, or welfare by any statute of the State of Arizona or any code or ordinance adopted by the Town of Queen Creek. These include but are not limited to the Queen Creek Town Code, the Queen Creek Zoning Ordinance, the Uniform Fire Code, International Building Code, Uniform Housing Code, and similar codes or any provision of any State statute or code or ordinance adopted by the Town of Queen Creek and intended to protect the character, safety or attractiveness of a neighborhood or area.

T. Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or blighted appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than six (6) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.

U. Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or blighted appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof.

V. To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.

W. All exposed exterior surfaces, windows and doors shall be maintained so as to be free of deterioration that is a threat to health and safety, impervious to moisture and weather elements, or shall not otherwise present a deteriorated or blighted appearance. Windows, doors, locks on doors, and hinges must be present and installed properly. These items must be free from deterioration or blighting conditions. Any temporary boarding of structures and buildings must be done in accordance with Town specifications.

Examples of such deterioration and blight include but are not limited to:

[1] Ordinance 486-10; 564-15

1. Improperly anchored canopies, metal awnings, stairways, exhaust ducts and overhead extensions;

2. Chimneys that are structurally unsafe;

3. Exterior windows, doors, garage doors, door hardware and door frames that are not maintained in sound condition, that are not fitted securely in their frames and are not substantially weather tight or have inoperable locks, holes, breaks or cracks; Any exterior door incapable of functioning as intended by design;

4. Paint that is deteriorated, indicated by peeling, flaking, cracked, blistering or mildew, resulting in exposed bare unprotected surfaces;

5. Window screening, if present, shall be maintained in good condition;

6. Boarded window or door openings on an occupied structure;

7. Boarded window or door openings on an unoccupied or vacant structure for more than one hundred eighty days in any two-year period;

8. Broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated or blighted appearance;

9. Exterior painted surfaces with loose, cracked, scaling, chipping or peeling paint, visible from a public area, in such amounts as to present a deteriorated or blighted appearance;

10. Any wood surfaces unprotected from the elements by paint or other protective treatment, except those naturally resistant to decay;

11. The existence of hazards, hazardous waste, junk or graffiti on Property.

X. All vacant, unsecured or abandoned buildings and structures shall be secured against unauthorized entry at all times.

1. Notice Posting.

   a. The owner of record of a vacant, unsecured or abandoned structure or building is required to post a notice at the front of the structure or building, in a conspicuous location protected from the weather, that provides the current name, address, and phone number of the owner of record, if the owner of record resides locally, or the current name, address, and phone number for a local authorized agent.

   b. If a notice of default or foreclosure has been recorded for the real property on which the vacant, unsecured or abandoned structure or building is constructed, the lender's name, address, and telephone number must also be provided on the notice posted.

   c. The posted notice shall be no smaller than 8 ½ inches by 11 inches.

2. Security.

   The owner of a vacant, unsecured or abandoned structure or building, or responsible party, is responsible for securing that building or structure and its property against unauthorized entry in accordance with the following provisions:

   a. For the first ninety (90) consecutive days during which the structure or building remains vacant, unsecured or abandoned, any doors, including garage doors, windows, and other opening of the structure or building may be secured with painted plywood panels that match the exterior appearance of the structure or building.

b. After the expiration of ninety (90) consecutive days, the owner, or responsible party, shall restore and maintain the structure or building to an occupied appearance, with all doors, including garage doors, windows, and other openings of the structure or building in good repair. The owner, or responsible, shall also install and maintain a security fence around the structure or building and maintain a commercially-serviced, 24-hour burglar alarm system to prevent unauthorized entry into the structure or building or onto the property.

Y. Any condition which poses a substantial risk to the health or safety of any person or of the public, including, but not limited to, an unsafe, unsanitary or structurally unsound condition.

Section 10-3-3 Litter in Public Places; Construction Debris

A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles, or in authorized private receptacles for collection.

B. Construction debris shall not remain uncontained for more than twenty-four hours and shall be contained at all times upon the premises.

Section 10-3-4 Depositing Litter in Gutters

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any public or private sidewalk or driveway or any building or lot. Persons owning or occupying property or places of business shall keep the sidewalk and parkway in front of their premise free of litter.

Section 10-3-5 Litter Thrown from Vehicles

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town or upon private property.

Section 10-3-6 Littering From Trucks

No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

Section 10-3-7 Littering in Parks

No person shall throw or deposit litter in any park within the town except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of.

Section 10-3-8 Deposit of Commercial Handbills on Public Property

No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the town, nor shall any person hand out or distribute

[1] Ordinance 486-10; 564-15

or sell any commercial handbill in any public place, but nothing in this section shall be deemed to prohibit any person from handing out or distributing on any sidewalk, street or other place within the town, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

Section 10-3-9 Handbills: Commercial and Non-Commercial

A. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle, but it is not unlawful on any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

B. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are known, or should be known, to such person to be temporarily or continuously uninhabited or vacant.

C. No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words **"**No Transient Merchants," 'No Peddlers," "No Door-To-Door Salesmen," "No Trespassing", "No Advertisements," "No Fliers," "No Handbills", indicating that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any handbill left upon such premises.

D. No person shall knowingly or recklessly throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited unless the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor of newspapers as defined by this article.

Section 10-3-10 Dropping Litter from Aircraft

No person in any aircraft shall throw out, drop or deposit within the town any litter, handbill or any other object.

Section 10-3-11 Deposit of Litter on Occupied Private Property

No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 10-3-12 Maintenance of Litter-Free Premises

The owner or person in control of any private property shall at all times maintain the premises free of litter; but this section shall not prohibit the storage of litter in authorized private receptacles for collection, or within any building when not in violation of any health, fire, building or any other regulation, ordinance, order or statute.

Section 10-3-13 Vacant Lots

No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

Section 10-3-14 Business Establishments - Receptacles

No person occupying or employed in any business establishment shall deposit any litter in any receptacle, unless such receptacle shall be provided with a lid of sufficient weight to prevent the escape of any litter from the receptacle. This provision shall not apply to boxes, either postboard or wooden, greater than six inches square in size, provided, however, that a receptacle shall be provided of sufficient size to prevent any such boxes from being carried or deposited by the elements upon any street, alley or other public place.

Section 10-3-15 Unsightly Premises

Every person owning, managing, controlling or occupying any real property in the town shall not allow any part of such property visible from the street or adjoining premises to become so unsightly or untidy as to substantially detract from the appearance of the immediate neighborhood or tend to threaten the safety and welfare of the immediate neighborhood.

Section 10-3-16 Abatement of Nuisances

Any public nuisance committed under this article may be abated in any manner provided by law including the method set forth in Article 10-2 of this chapter.

Section 10-3-17 Penalties

Any person, whether as principal, owner, agent, tenant, employee or otherwise who maintains a nuisance upon any property within the town, violates any provision of this article, or fails to comply with any provision of this article, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in Article 1-8 of this code. The conviction of any person hereunder shall not relieve such person from the responsibility to correct such violation, nor prevent the enforcement, correction or removal thereof in any manner authorized by law. Every day that a nuisance is permitted to exist or caused to continue to exist under this article shall be deemed a separate violation.

[1]Ordinance 486-10

[1] Ordinance 486-10; 564-15

ARTICLE 10-4 ABANDONED VEHICLES[1]

10-4-1 Definitions
10-4-2 Abandonment Prohibited
10-4-3 Exemption
10-4-4 Vehicle Removal
10-4-5 Presumption of Responsibility
10-4-6 Towed Vehicles; Notification; Violation; Classification
10-4-7 Towing and Storage Costs
10-4-8 Disposition of Abandoned and Junk Vehicles

Section 10-4-1 Definitions

In this chapter, unless the context otherwise requires:

A. "Abandoned vehicle" means a vehicle, trailer or semitrailer that is of a type subject to registration under A.R.S. Title 28, whether lost, stolen, abandoned or otherwise unclaimed and that has been abandoned on a public highway, public property or elsewhere in the town, including private property. Evidence that a vehicle was left unattended for a period of forty-eight hours within the right-of-way of any highway, road, street or other public thoroughfare or for a period of seventy-two hours on public or private property or elsewhere in the town is prima facie evidence of abandonment.

B. For the purposes of this article, "junk vehicle" means a vehicle that is in such a state of deterioration that it cannot be profitably dismantled or salvaged for parts and cannot be profitably restored.

C. "Officer" means any police officer or other law enforcement officer.

D. "Vehicle registration agency" means the agency or department of any state that has charge of the records of motor vehicle registration in that state.

[1]Ordinance 117-97

Section 10-4-2 Abandonment Prohibited

A person shall not abandon a vehicle on any street, highway or private property within the town.

Section 10-4-3 Exemption

A motor vehicle eligible for licensing pursuant to chapter 7, article 14 of A.R.S. Title 28 or A.R.S. § 28-2411 is not an abandoned vehicle and shall not be seized pursuant to this article or any ordinance authorized by this article while the vehicle is stored or maintained on the vehicle owner's private property.

Section 10-4-4 Vehicle Removal

A. An officer who has reasonable grounds to believe that a vehicle has been lost, stolen, abandoned or otherwise unclaimed may remove or cause the removal of the vehicle from any street, highway or private property.

B. If a person removes or causes the removal of an abandoned vehicle from private property, the person shall both:

   1. Obtain written authorization from the owner or lessee of the property on a form prescribed by the Maricopa County sheriff's department.

   2. Submit the form and the vehicle identification form to the Maricopa County sheriff's department.

C. An officer who has removed an abandoned vehicle pursuant to this section shall inspect the vehicle and shall complete the vehicle identification form prescribed or approved by the Maricopa County sheriff's department. The Maricopa County sheriff's department shall make an inquiry to determine whether the abandoned vehicle is a stolen abandoned vehicle.

D. A person who has removed or caused to be removed an abandoned vehicle from private property shall have the vehicle inspected by an officer or agent of the Maricopa County sheriff's department. The officer or agent shall make an inquiry to determine whether the abandoned vehicle is a stolen abandoned vehicle.

Section 10-4-5 Presumption of Responsibility

The abandonment of a vehicle in a manner provided in this article is a presumption that the last registered owner of record is responsible for the abandonment and is subject to this article, unless either:

A. An affidavit has been filed that the vehicle was stolen pursuant to A.R.S. § 28-4844.

B. A stolen report has been accepted by a local law enforcement agency.

[1] Ordinance 486-10; 564-15

Section 10-4-6 Towed Vehicles; Notification; Violation; Classification

A. Except if acting under the direction of a peace officer, a person who moves or tows a vehicle into a public garage, parking lot, storage yard or automotive recycling yard or on private property without the consent of the vehicle owner or the owner's agent shall notify the Maricopa County sheriff's department by telephone within one hour of the time the vehicle is moved or towed.

B. A person who fails to comply with this section forfeits all claims for towing and storing the vehicle and is guilty of a class 1 misdemeanor.

Section 10-4-7 Towing and Storage Costs

A. Maricopa County shall not incur any liability for the cost of towing or storing a vehicle removed under this article when its officer has removed or caused the removal of the vehicle under color of the officer's lawful authority.

B. The owner of a vehicle that is removed or caused to be removed under this article is liable for any reasonable costs incurred in towing or storing the vehicle.

Section 10-4-8 Disposition of Abandoned and Junk Vehicles

Any abandoned or junk vehicle seized under this article shall be disposed of in accordance with A.R.S. § 28-4801 et seq.

ARTICLE 10-5 UNATTENDED CONTAINERS[1]

No person shall place, display or maintain any unattended container for soliciting deposit of recyclable materials or donated items in any exterior location within the town limits, except in conformance with all of the following provisions:

A. Such unattended containers may be located only within the parking lot of private property lawfully zoned, developed and used for commercial or industrial purposes or at schools, churches or charitable organizations which have similar parking facilities.

B. Such unattended containers may be located only with the permission of the property owner, his agent or the person in possession of the property, and the container owner's name and current telephone number shall be displayed thereon in a conspicuous location.

C. The owner of such unattended container and the property owner shall be jointly and severally responsible for maintaining all exterior areas within twenty-five feet of the container and shall keep such area free from litter at all times.

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[1]Ordinance 117-97

ARTICLE 10-6 ON-SITE REST ROOM FACILITIES[1]

All construction sites shall provide on-site rest room facilities for employees while construction is occurring in conformance with all of the following provisions:

A. There shall be a minimum of one toilet provided on-site for every single-family residential construction project. When the same general contractor has two single-family residential construction projects on adjoining lots with the same street frontage, one toilet located as close as possible to the common property line shall fulfill the requirements of this article for both sites.

B. When there is a non-single-family residential construction site, there shall be one toilet facility for every five thousand square feet of building area. Any fraction thereof shall be rounded up to require the additional toilet facility.

ARTICLE 10-7 AIR QUALITY AND FUGITIVE DUST[2]

Section 10-7-1 PURPOSE
Section 10-7-2 DEFINITIONS
Section 10-7-3 ENFORCEMENT, VIOLATIONS, NOTICES AND PENALTIES
Section 10-7-4 VEHICLE PARKING AND USE ON VACANT LOTS
Section 10-7-5 OPERATION OF VEHICLES ON PUBLIC AND PRIVATE PROPERTY
Section 10-7-6 PARKING, MANEUVERING, INGRESS AND EGRESS
Section 10-7-7 LEAF BLOWER RESTRICTIONS
Section 10-7-8 COMPLIANCE MONITORING
Section 10-7-9 VIOLATIONS DEEMED A PUBLIC NUISANCE
Section 10-7-10 REMEDIES NOT EXCLUSIVE
Section 10-7-11 COMPATIBILITY WITH OTHER REGULATIONS
Section 10-7-12 SEVERABILITY

[1]Ordinance 117-97

[2]Ordinance 419-08

Section 10-7-1 Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Queen Creek by improving air quality through the regulation of Fugitive Dust and PM-10 particles to the maximum extent practicable as required by federal and state law. The Town hereby finds and declares that this ordinance is not a land use law. The Town hereby finds and declares the objectives of this ordinance are:

A. To regulate the contribution of Fugitive Dust and PM-l0 from any Town resident, developer or visitor; and

B. To establish legal authority to implement all inspection, surveillance, monitoring, and enforcement procedures necessary for compliance with this ordinance; and

C. To meet requirements imposed by state and federal law; and

D. To limit or prohibit situations that could be recognized as public nuisances; and

E. To allow for the protection of the public's health and safety, including, transportation or traffic control, health and sanitation and pollution control.

Section 10-7-2 Definitions

For the purposes of this ordinance, the following shall mean:

A. **"Area A"-** means the part of the greater Phoenix metropolitan area where specific pollution control programs are in place for ozone, carbon monoxide, and particulate matter. As defined in Arizona Revised Statutes (ARS) §49-541(1).

B. **"County Dust Control Permit"** – means a permit issued by Maricopa County evidencing that a dust generating operation has a satisfactory dust control plan in place approved by the Maricopa County Air Quality Department.

C. **"Fugitive Dust"** – means the particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind. For the purpose of this ordinance, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, or from piledrivers.

D. **"Landscape Debris"** – means debris generated or accumulated as a result of, or moved in the course of, landscape operations. Landscape debris includes, but is not limited to, grass clippings, leaves, branches, vegetative matter, rubbish, soil and rock.

E. **"Leaf Blower"** – means any device that generates a stream of air that is designed, or used, to move landscape debris.

F. **"Off-Road Vehicle" –** means a self-propelled device and its appurtenances, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motor buggies and excluding devices moved by human power or used exclusively on stationary rails or tracks and excluding motorized wheelchairs.

G. **"PM-10"** – means the standard adopted by the Environmental Protection Agency that

focuses on smaller particulates in the air that are likely responsible for adverse health effects because of their ability to reach the lower regions of the respiratory tract. The PM-10 standard includes particles with an aerodynamic diameter smaller than or equal to ten (10) microns (micrometers) as measured by the applicable state and federal reference test methods.

H. **"Person"** – means any individual, organization, public or private corporation or other entity recognized by law, company, partnership, firm, association or society of persons, the Federal Government and any of its departments or agencies, or the State and any of its departments or agencies, or political subdivisions.

I. **"Public Roadway"** –means any street, alley, road, highway or thoroughfare of any kind that is used by the public or that is open to the public as a matter of right, for the purpose of vehicular travel.

J. **"Town"** – means the Town of Queen Creek, Arizona.

K. **"Unstabilized" –** means a surface that has not been paved or stabilized with asphaltic concrete, cement concrete, hardscape, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, decomposed granite cover, crushed granite cover, aggregate cover, gravel cover, or grass or other continuous vegetative cover, or any combination of such paving or stabilizing.

L. **"Vacant Lot" –** means any of the following:

1. An unsubdivided or undeveloped tract of land.

2. A subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings, structures, or uses of a temporary or permanent nature.

3. A partially developed residential, industrial, institutional, governmental, or commercial lot.

4. For the purpose of this ordinance, a vacant lot is not a public roadway.

M. **"Vehicle"** – means a self propelled device and its appurtenances, excluding devices moved by human power or used exclusively on stationary rails or tracks.

Section 10-7-3 Enforcement, Violations, Notices and Penalties

A. Responsibility for Administration

1. The Enforcement Officer, acting through and designated by the Town Manager, shall administer, implement and enforce the provisions of this ordinance involving air quality and fugitive dust. The Enforcement Officer may enforce the provisions of this ordinance when reasonable cause exists to believe that any person has violated or is in violation of any provision of this ordinance.

2. The term "Enforcement Officer" means any person, who is either an employee, agent or independent contractor, authorized by the Town Manager to administer, implement and enforce the provisions of this ordinance and who has authority to enforce the Town of Queen Creek rules, regulations, resolutions and ordinances. The "Enforcement Officer" may include more than one person,

including a civil hearing officer acting in compliance with A.R.S. §9-500.21.

B. Violations, Notices and Penalties of General Applicability for Ordinance

1. Unless an alternative process or penalty is expressly indicated within this ordinance or the Town Code, when the Enforcement Officer has reasonable cause to believe that any person has violated or is in violation of any provision of this ordinance, the Enforcement Officer shall issue, for the first violation of this ordinance, a warning notice stating which requirement of the ordinance was violated.

2. Unless an alternative process or penalty is expressly indicated within this ordinance or the Town Code, the Enforcement Officer may impose a civil penalty of $50 for the second violation of this ordinance. Upon a third violation of this ordinance, the Enforcement Officer may impose a civil penalty of $100. After the fourth and subsequent violations of this ordinance, the Enforcement Officer may impose a civil penalty of $250.

C. This Ordinance shall not apply during a period of public emergency as declared by the Town, state authorities or federal authorities or if the operation is directed by a peace officer or other public authority.

D. Pursuant to A.R.S. §9-500.04(H), the requirements of Sections 10-7-4, 10-7-6 and 10-7-7 of this ordinance do not apply to any site that has a permit issued by a control officer as defined in A.R.S. §49-471 for the control of fugitive dust from dust generating operations.

Section 10-7-4 Vehicle Parking and Use on Vacant Lots

A person shall not park or use a vehicle on an unstabilized vacant lot within the Town. This section does not apply to sites that have been issued a County Dust Control Permit for the control of fugitive dust from dust generating operations.

Section 10-7-5 Operation of Vehicles on Public and Private Property

A. A person shall not operate any vehicle, including off-road vehicles, on unpaved public property that is not a public roadway or lawful easement, without lawful authority. Lawful authority shall consist of rules, regulations, or orders of a federal agency, this state, a county or municipality, which shall be made available to the public by any one of the following methods:

1. A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004;

2. Orders of a government land management agency;

3. Most current maps approved by such government land management agency; and

4. Virtual posting from a government land management agency.

B. A person shall not operate any vehicle, including off-road vehicles, on unpaved private property that is not a private road, street or lawful easement and that is closed by the landowner by rule or regulation of a federal agency, this state, a county or a municipality or by a proper posting, without the consent of the lawful owner. Consent of the lawful owner consists of either or both of the following:

1. A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004;

2. Prior written permission which contains the following:

(a) the name, address and telephone number of the person granting permission for the use of the property;

(b) a description of the interest the person granting permission has in the property (i.e., property owner, lessee or agent);

(c) if the person granting permission is not the owner of the property, the written permission shall also contain the name, address and telephone number of the property owner;

(d) specific period of time for which permission for the use of the property is being granted; and

(e) The signature of the person granting permission for the use of the property.

C. Whenever any person is stopped by an Enforcement Officer for a violation of Section 10-7-5 of this ordinance, he/she shall, upon the request of the Enforcement Officer identify or present the lawful authority or consent of the lawful owner required in this section

D. The property owner, person entitled to immediate possession of the property, or invitee who has lawful authority may operate such vehicles on the property if such use does not violate any other applicable laws.

E. <u>Exemptions</u>:

1. This Section 10-7-5 shall not apply to the operation of vehicles used in the normal course of business or the normal course of government operations.

2. This Section 10-7-5 shall not apply to operations directed by utilities for operation, distribution and transmission systems provided that both of the following conditions are satisfied: (a) operations are performed with a marked company vehicle; and (b) if operations are performed with a personal vehicle, then identification of the company shall be visible and readable by the public.

F. As mandated by A.R.S. §9-500.27, a person who violates this section 10-7-5 of the

ordinance is guilty of a class 3 misdemeanor.

G. As mandated by A.R.S. §9-500.27, if a person is deemed to have violated this section 10-7-5, in addition to or in lieu of a fine, a judge may order the person to perform at least eight (8) but not more than twenty-four (24) hours of community restitution or to complete an approved safety course related to the off-highway operation of motor vehicles, or both.

Section 10-7-6 Parking, Maneuvering, Ingress and Egress

A. Other than Residential. All persons who are owners, tenants or operators shall maintain parking, maneuvering, ingress and egress areas at developments other than residential buildings with four (4) or fewer units with one or more of the following dustproof paving methods:

1. Asphaltic concrete;

2. Cement concrete;

3. Penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate;

4. A stabilization method approved by the Town.

B. Residential. All persons who are owners, tenants or operators shall maintain parking, maneuvering, ingress and egress areas that are three thousand (3,000) square feet or more in size at residential buildings with four (4) or fewer units with a paving or stabilization method authorized by the Town Code or permit.

Section 10-7-7 Leaf Blower Restrictions

A. A person shall not operate a leaf blower in a manner that causes landscape debris to be blown into a public roadway.

B. No person who is an employee or contractor of the Town shall operate a leaf blower on any high pollution advisory day forecast by the department of environmental quality, except while in vacuum mode.

Section 10-7-8 Compliance Monitoring

The Town shall be permitted to enter and inspect property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

A. If a property owner has security measures in force, which require proper identification and clearance before entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the Town, including the Enforcement Officer.

B. Any temporary or permanent obstruction to safe and easy access to the property to be inspected shall be promptly removed by the property owner at the written or oral request of the Town, including the Enforcement Officer, and shall not be replaced. The costs of such access shall be borne by the property owner.

Section 10-7-9 Violations Deemed A Public Nuisance

In addition to the enforcement process and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 10-7-10 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including monitoring expenses.

Section 10-7-11 Compatibility With Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.

Section 10-7-12 Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provision or application of this ordinance.

ARTICLE 10-8 SOLID WASTE SERVICES; BULK WASTE SERVICES; RECYCLING SERVICES; ANIMAL WASTE SERVICES FOR RESIDENTIAL DWELLINGS[1]

Section 10-8-1 Purpose
Section 10-8-2 Definitions
Section 10-8-3 Applicability
Section 10-8-4 Presumption of Responsibility
Section 10-8-5 Residential Waste Services – Mandatory; Animal Waste Service Optional
Section 10-8-6 Temporary Discontinuance of Residential Waste Services
Section 10-8-7 Accumulation and Storage Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
Section 10-8-8 Location for Collection of Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
Section 10-8-9 Time for placement for Collection of Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
Section 10-8-10 Cart Responsibilities
Section 10-8-11 Cart Costs for New Residential Waste Service Units
Section 10-8-12 Ownership of Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
Section 10-8-13 Rates, Charges, Fees and Payments
Section 10-8-14 Prohibited Acts
Section 10-8-15 Rules and Regulations
Section 10-8-16 Inspections
Section 10-8-17 Vector Control
Section 10-8-18 Cart Repossession
Section 10-8-19 Termination of Services; Lien for Unpaid Charges
Section 10-8-20 Enforcement as a Civil Code Violation
Section 10-8-21 Exemptions

Section 10-8-1 Purpose

The purpose of this Article is to preserve the health, safety and welfare of the citizens of Queen Creek, and establish a sustainable community by providing standards for the safe and sanitary provision of Solid Waste Services, Bulk Waste Services and Recycling Services for residential dwellings ("Residential Waste Service Units" as defined herein) within the Town. Nothing in this Article shall be construed to impinge upon or supplant the authority of the county health department, state department of health services or other public agency having exclusive legal jurisdiction over any matter which is the subject of this Article.

[1] Ordinance 469-10 July 2010

Section 10-8-2 Definitions

In this Article, unless the context otherwise requires:

"Administrator" — Administrator shall mean the Town Manager of the Town, or his designee or designees, who shall represent the Town in the administration of this Article.

"Animal Waste" — Animal Waste shall mean any unsanitary waste from the breeding, raising, containing, maintaining or grooming of animals from stables, kennels, pet pens, chicken coops, places of residence, veterinary establishments or other places of a similar nature. Animal Waste shall include manure.

"Animal Waste Services" — Animal Waste Services shall mean the collection of Animal Waste, delivery of Animal Waste to the Disposal Facility or the Recycling Facility, and the disposal of Animal Waste at the Disposal Facility or recycling of Animal Waste at the Recycling Facility.

"Audio/Video Equipment" — Audio/Video Equipment shall mean televisions, stereos, radios, amplifiers, projectors, satellite and cable equipment, video equipment, VCR's, CD player, Video game equipment, surveillance equipment, cameras, broadcasting equipment, communications equipment, and other electronic equipment of a similar nature.

"Backdoor" — Backdoor shall mean a location at the front, side or rear of a Residential Waste Service Unit designated by the Town for Solid Waste Services and Recycling Services for the Residential Waste Service Units.

"Batteries" — Batteries shall mean alkaline batteries, nickel cadmium batteries, lead acid batteries, lithium batteries, and other electronic equipment of a similar nature.

"Bag" — Bag shall mean non-dissolvable leak proof plastic sacks with a capacity of up to approximately thirty-two (32) gallons designed or intended to store Solid Waste with sufficient wall strength to maintain physical integrity when lifted by the top.

"Bulk Waste" — Bulk Waste shall mean Solid Waste composed of materials not easily containerized in a Cart such as, but not limited to, Green Waste, furniture, cardboard and large appliances. Bulk Waste shall not include Animal Waste or Excluded Waste.

"Bulk Waste Services" — Bulk Waste Services shall mean the collection of Bulk Waste by the Contractor, delivery of Bulk Waste to the Disposal Facility or the Recycling Facility by the Contractor, and the disposal of Bulk Waste at the Disposal Facility or recycling of Bulk Waste at the Recycling Facility by the Contractor.

"Cart" — Cart shall mean a receptacle with wheels with a capacity of up to approximately ninety-five (95) gallons designed or intended to be mechanically dumped into a loader-packer type truck and approved for use by the Town.

"Collection" — Collection shall mean the act of picking up Residential Solid Waste, Bulk Waste, or Animal Waste from Residential Waste Service Units, or Neighborhood Recycling Drop-off Sites, and delivery of the Residential Solid Waste, Bulk Waste, or Animal Waste to the Disposal Facility. Collection shall also mean the act of picking up Program Recyclables, Animal Waste, Electronics, or tires from Residential Waste

Service Units, or Neighborhood Recycling Drop-off Sites, and delivery of the Program Recyclables or Animal Waste to the Recycling Facility.

"Computer Equipment" — Computer Equipment shall mean PC's, laptops, CRT monitors, modems, switches, hubs and routers, storage devices, main frames, servers, power supplies, tape libraries, circuit boards, power cords, printers, wire and cabling, surplus metals, mice, keyboards, hard drives, floppy, DVD and CD drives, and other electronic equipment of a similar nature.

"Construction Waste" — Construction Debris shall mean solid waste derived from the construction, repair or remodeling of buildings or other structures.

"Contractor" — Contractor shall mean the person or entity engaged by the Town to perform Solid Waste Services, Bulk Waste Services and Recycling Services for Residential Waste Service Units within the Town.

"Curbside" — Curbside shall mean within five (5) feet of the street or alleyway that provides primary access to the Residential Waste Service Unit as designated by the Town.

"Demolition Waste" — Demolition Waste shall mean solid waste derived from the demolition of buildings or other structures.

"Dispose", "Disposed" or **"Disposal" —** Dispose, Disposed, or Disposal shall mean the discharge, deposit injection, dumping, spilling, leaking of any Residential Solid Waste, Town Facility Solid Waste, Special Event Solid Waste, Bulk Waste, or Animal Waste at a Disposal Facility operated in accordance with laws.

"Disposal Facility" — Disposal Facility shall mean a facility, area of land or excavation in Town Facility Solid Waste, Special Event Solid Waste, Bulk Waste which Residential Solid Waste, and Animal Waste is placed for permanent disposal. Disposal Facility does not include a land application unit, surface impoundment, injection well, compost pile or waste pile or an area containing ash from the on-site combustion of coal that does not contain household waste, household hazardous waste or conditionally exempt small quantity generator waste.

"Electronic Components" — Electronic Components shall mean capacitors diodes, resistors, transistor and integrated circuits, and other electronic equipment of a similar nature.

"Electronics" — Electronics shall mean Computer Equipment, Point of Sale Equipment, Telecom Equipment, Printing Equipment, Audio/ Visual Equipment, Batteries, Electronic Components, household appliance, surplus metals and wire and cable, test equipment, lab equipment, connectors, ballasts, power strips, and other electronic equipment of a similar nature.

"Excluded Waste" — Excluded Waste shall mean Hazardous Waste, Electronics, Construction Waste and Demolition Waste, latex and oil based paints, stains and varnishes, adhesives, motor oil, antifreeze, transmission fluids, gasoline and diesel fuel, pesticides and fungicides, pool chemicals, household cleaners, propane tanks, camping cylinders, fire extinguishers, fluorescent and CFL light bulbs, and automobile and household batteries.

"Green Waste" — Green Waste shall mean organic yard waste, including but not limited to, grass clippings, tree trimmings, brush clippings, and other organic yard waste of a similar nature.

"Hazardous Waste" — Hazardous Waste shall have the meaning set forth in Arizona Administrative Code Section R18-8-261.

"Large Lot" - Large Lot shall mean any residential lot on which Large Livestock is legally kept in conformance with the Town Zoning Ordinance, or any residential lot of two (2) acres or more.

"Laws" – Laws shall mean any and all Federal, State and local laws, statutes, regulations, rulings, ordinances and policies.

"Neighborhood Recycling Drop-off Site" — Neighborhood Recycling Drop-off Site shall mean any site designated by the Town for drop-off of Program Recyclables. The Town has the sole authority to add or eliminate Neighborhood Recycling Drop-off Sites.

"Point of Sale Equipment" — Point of Sale Equipment shall mean credit card machines, printers, scanners, and other electronic equipment of a similar nature.

"Printing Equipment" — Printing Equipment shall mean printers, fax machines and copiers, calculators, typewriters and printer cartridges, and other electronic equipment of a similar nature.

"Program Aluminum and Steel Recyclables" — Program Aluminum and Steel Recyclables shall mean aluminum used beverage containers, aluminum foil, aluminum pie plates, scrap aluminum, steel "tin" food cans, bi-metal containers, aerosol cans, and lids composed primarily of whole iron or steel.

"Program Glass Recyclables" — Program Glass Recyclables shall mean clear, brown, and green glass food and beverage jars and bottles with or without paper labels, rings, and lids. Program Glass Recyclables shall not mean window glass, porcelain and china are not acceptable.

"Program Paper Recyclables" — Program Paper Recyclables shall mean (i) all loose or bagged Kraft paper, all loose or bagged old corrugated containers that have liners of Kraft, jute, or test liner including dry food boxes, beer and soda carriers, and shoe boxes, (ii) all loose or bagged old newspaper including slick paper inserts, and (iii) all junk mail, junk mail inserts, residential mixed paper, bagged shredded paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper including continuous-formed perforated white bond or green bar paper, book paper, cotton fiber content paper, duplicator paper, form bond, manifold business forms, mimeo paper, note pad paper (no backing), loose leaf fillers, stationery, writing paper, paper envelopes without plastic windows, carbonless (NCR) paper, tabulating cards, facsimile paper, manila folders, magazines, paperback books, small catalogs, telephone books and Yellow Pages .

"Program Plastic Recyclables" — Program Glass Recyclables shall mean any #1 through #7 rigid plastic bottle, containers, jugs, or jars.

"Program Recyclables" — Program Recyclables shall mean Program Aluminum and Steel Recyclables, Program Glass Recyclables, Program Paper Recyclables, and Program

Plastic Recyclables. Program Recyclables shall not include Animal Waste or Excluded Waste.

"Recyclable Materials"— Recyclable Materials shall mean those materials which are capable of being recycled, which would otherwise be processed or disposed of as Solid Waste, and which are approved by the Town for Recycling Services. Recyclable Materials shall not include Excluded Waste.

"Recycling" — Recycling shall mean any process by which materials which would otherwise become Solid Waste are collected, processed and marketed for reuse or return to use in the form of raw materials or products.

"Recycling Container" – Recycling Container shall mean any metal or plastic container, with a capacity of approximately three hundred (300) gallons designed to or intended to be mechanically dumped into a loader-packer type garbage truck and used for Neighborhood Recycling Drop-off Site Services. All such Recycling Containers must be clearly marked in a manner approved by the Town.

"Recycling Services" — Recycling Services shall mean the collection of Single Stream Recyclable Materials from Residential Waste Service Units, or Neighborhood Drop-off Recycling Sites, delivery of Recyclable Materials to Recycling Facility, and processing of Recyclable Materials at the Recycling Facility, and marketing of Recyclable Materials by the Recycling Facility.

"Resident" — Resident shall mean a person residing at a Residential Waste Service Unit.

"Residential Waste Service Area" — Residential Waste Service Area shall mean Residential Waste Service Area as described by separate resolution on file with the Town Clerk.

"Residential Waste Service Unit" — Residential Waste Service Unit shall mean a residential dwelling identified by the Town to receive Residential Waste Services and utilizing a Solid Waste Cart for the accumulation and storage of Residential Solid Waste.

"Residential Waste Services" — Residential Waste Services shall mean the provision of (i) once per week collection of one (1) Solid Waste Cart, Services, (ii) once per week collection of one (1) Recycling Cart, and (iii) once per month collection of six (6) cubic yards of Bulk Waste. Residential Waste Services may include the provision of optional collection of (i) additional Solid Waste Cart(s), (ii) Non-collection Day Solid Waste Cart (iii) additional Recycling Cart(s), (iv) additional collection of Bulk Waste, and (v) collection of Animal Waste, where such election is made pursuant to this Article.

"Single Stream" — Single Stream shall mean a recycling process in which Recyclable Materials are collected mixed together with no sorting required by the Residential Waste Service Unit, Neighborhood Recycling Drop-off Site or other Person generating the Recyclable Materials.

"Solid Waste" — Solid Waste shall mean any garbage, trash, rubbish, waste tire, refuse, sludge from a waste treatment plant, water supply treatment plant or pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material (as set forth in Section 49-701.01(A) of the Arizona Revised Statutes) unless otherwise excluded by the provisions of Sections 49-701.01(B) or 49-701.02 of the Arizona Revised Statutes. Solid Waste shall not include Animal Waste or Excluded Waste.

"Solid Waste Services" — Solid Waste Services shall mean the collection of Solid Waste, delivery of Solid Waste to the Disposal Facility, and the disposal of Solid Waste at the Disposal Facility.

"Telecom Equipment" — Telecom Equipment shall mean telephones, cell phones, CSU/DSU multiplexing equipment, phone systems, answering systems, and other electronic equipment of a similar nature.

"Vector" — Vector shall mean rodents, flies and mosquitoes capable of transmitting disease to humans.

Section 10-8-3 Applicability

Except where expressly provided otherwise in this Chapter, this Article shall apply to Solid Waste Services, Bulk Waste Services, Recycling Services, and Animal Waste Services for Residential Waste Service Units.

Section 10-8-4 Presumption of Responsibility

The Resident(s) and the property owner (if different than the Resident(s)) of any Residential Waste Service Unit shall be responsible for compliance with all applicable laws relating to the Residential Waste Service Unit, including compliance with this Chapter.

Section 10-8-5 Residential Waste Services Mandatory; Animal Waste Service Optional

A. Except where expressly provided otherwise in this Article, all Residential Service Units currently served by a water system and located within the Town Residential Waste Service Area shall be provided Residential Waste Services by Town forces, or the Town's Contractor, and pay the rates as provided by Town resolution. Except where expressly provided otherwise in this Article, every person residing in a Residential Waste Service Unit served by a water system and located within the Town Residential Waste Service Area shall cause Solid Waste, Bulk Waste, and Program Recyclables to be collected by Town forces, or the Town's Contractor.
B. Animal Waste may be collected by Town forces, or the Town's Contractor, as set forth herein, but is not required.

Section 10-8-6 Temporary Discontinuance of Residential Waste Services

Any Residential Waste Service Unit currently served by a water system and located within the Town Residential Waste Service Area may be granted a Temporary Discontinuance of Residential Waste Services by the Town if:

A. The Resident in the Residential Waste Service Unit submits a written request for Temporary Discontinuance of Mandatory Residential Waste Services in accordance with the Town's Application for Temporary Discontinuance of Mandatory Residential Waste Services; and
B. The requested period for Temporary Discontinuance of Residential Waste Services is for a minimum period of two (2) consecutive calendar months and a maximum period of six (6) consecutive calendar months; and

C. The requested period for Temporary Discontinuance of Residential Waste Services combined with granted written request(s) for Temporary Discontinuance of Residential Waste Services for the same calendar year does not exceed a total of six (6) calendar months for the calendar year; and

D. Town receives the Residential Waste Service Unit's Temporary Discontinuance of Residential Waste Services application for Temporary Discontinuation of Residential Waste Services a minimum of one (1) calendar month and a maximum of three (3) calendar months prior to requested start date for Temporary Discontinuance of Residential Waste Services; and

E. The Resident in the Residential Waste Service Unit submits the Temporary Discontinuation Fee in accordance with the Town's Application Temporary Discontinuance of Residential Waste Services form.

A Resident may terminate the Temporary Discontinuance of Residential Waste Services and resume receiving Residential Waste Services for a Residential Waste Service Unit by following the procedures set forth in the Town's Application for Temporary Discontinuation of Residential Waste Services form and paying any applicable fee set by the Town. If a Cart(s) or Bulk Waste is placed at the curbside of the Residential Waste Service Unit granted a Temporary Discontinuance of Residential Waste Services during the period of time for which the Temporary Discontinuance of Residential Waste Services has been granted without properly terminating the Temporary Discontinuance of Residential Waste Services as set forth above, the Town shall terminate the Temporary Discontinuance of Mandatory Residential Waste Services and no further Temporary Discontinuance of Residential Waste Services for that Residential Waste Services Unit shall be permitted for twelve (12) consecutive calendar months following the date of termination of the Temporary Discontinuance of Residential Waste Services by the Town. Upon termination of the Temporary Discontinuation of Residential Waste Services, Residential Waste Services will resume, and all rates, charges and fees under § 10-8-13 below will apply commencing on that date forward.

Section 10-8-7 Accumulation and Storage Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Except where expressly provided otherwise in this Chapter, Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste shall be accumulated and stored in conformance with the following provisions:

A. **Solid Waste.** Residents shall accumulate and store Solid Waste in bags that are tightly secured to where odors cannot escape, flies or other vectors cannot pass, and uncontained Solid Waste shall not release dust or other particles. Residents shall place bags containing Solid Waste in Carts designated by the Town for collection of Solid Waste with the Cart lid completely closed. Residents shall accumulate and store Solid Waste within the Residential Waste Service Unit until placement as set forth in this Chapter.

B. **Bulk Waste.** Residents shall accumulate and store Bulk Waste within the Residential Waste Service Unit until placement as set forth in this Chapter.

C. **Program Recyclables.** Residents shall not accumulate and/or store Program Recyclables in bags prior to being placed in Recycling Carts or Recycling Containers designated by the Town for collection of Program Recyclables. Residents shall place Program Recyclables in Recycling Carts designated by the Town for collection of Program Recyclables with the Cart lid completely closed. Residents shall place Program Recyclables in Recycling Containers designated by the Town for collection

of Program Recyclables as instructed by the Town on the Recycling Container. Residents shall accumulate and store Program Recyclables within the Residential Waste Service Unit until placement as set forth in this Chapter.

D. **Animal Waste.** For Residents electing to receive Animal Waste Services by Town forces, Residents shall accumulate and store Animal Waste to be collected by Town forces, including manure, in bags that are tightly secured so that odors cannot escape, and flies or other vectors cannot pass into or out of the bags. Residents shall dry manure prior to accumulation and storage in tightly secured bags. Residents shall place bags containing Animal Waste in Carts designated by the Town for collection of Animal Waste with the Cart lid completely closed. Residents shall accumulate and store Animal Waste within the Residential Waste Service Unit until placement in the appropriate Cart as set forth in this Article.

Section 10-8-8 Location for Collection of Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Residents shall place Solid Waste in Carts designated by the Town for collection of Solid Waste, Program Recyclables in Carts designated by the Town for collection of Program Recyclables, and Animal Waste in Carts designated by the Town for collection of Animal Waste at the:

A. **Solid Waste and Program Recyclables.**

(1) **Curbside.** For Residents not deemed approved for collection of Solid Waste and Program Recyclables at the backdoor, Residents shall place Solid Waste and Program Recyclables at the curbside with the lids closed, the lids opening toward the street, and a minimum of two (2) feet apart to facilitate automated collection. Residents shall place Carts away from street light poles, mail boxes and parked cars. If parked cars prevent access by mechanized collection vehicles to the sidewalk or driveway, Residents shall place the Carts in the street away from such parked cars. Residents shall not place Carts in such a manner as to create a pedestrian hazard, impair the use of the sidewalk or interfere with vehicular traffic.

(2) **Backdoor.** If the Town deems all Residents of a Residential Waste Service Unit are handicapped or due to age or verified physical limitations cannot safely move a Cart, the Residents of such Residential Waste Service Units shall place Solid Waste and Recycling Carts at the backdoor.

B. **Bulk Waste.** Residents shall place Bulk Waste neatly in a consolidated pile at the curbside. Residents shall not place Bulk Waste in a location as to block Carts, to create a pedestrian hazard, impair the use of the sidewalk or interfere with vehicular traffic.

C. **Animal Waste.** For Residents electing to receive Animal Waste Services by Town forces, Residents shall place Carts designated by the Town for collection of Animal Waste at the curbside with the lids closed, the lids opening toward the street, and a minimum of two (2) feet apart to facilitate automated collection. Residents shall place Carts away from street light poles, mail boxes and parked cars. If parked cars prevent access by mechanized collection vehicles to the sidewalk or driveway, Residents shall place the Carts in the street away from such parked cars. Residents shall not place Carts in such a manner as to create

a pedestrian hazard, impair the use of the sidewalk or interfere with vehicular traffic.

Section 10-8-9 Time for placement for Collection of Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste shall be placed at the curbside prior to 6:00 a.m. on the designated collection day, but shall not be placed at the curbside before 6:00 p.m. on the day preceding the designated collection day. Carts must be removed from the curb by end of day on the day of collection and shall be secured at the Residential Waste Service Unit between collection days in such a manner that they are not readily susceptible to theft or vandalism.

Section 10-8-10 Cart Responsibilities

Residents shall be responsible for the following:

A. **Weight Limitations of Carts.** Residents to ensure optimal use of Carts and collection equipment and/or prevent the injury or harm to those Town or Contractor staff shall ensure the contents of the Cart shall not exceed two hundred (200) pounds.

B. **Capacity Limitations of Carts.** Residents to ensure optimal use of Carts and collection equipment and/or prevent the injury or harm to those Town or Contractor staff shall ensure the contents of the Cart shall not exceed the following capacity limitations:

(1) Carts designated for collection of Solid Waste: ninety-five (95) gallons

(2) Carts designated for collection of Program Recyclables: ninety-five (95) gallons

(3) Carts designated for collection of Animal Waste

i. Animal Waste Half Cart Collection: forty-three (43) gallons

ii. Animal Waste Full Cart Collection: ninety-five (95) gallons

C. **Ownership of Carts.** All Carts are the property of the Town. Residents shall ensure all Carts remain at the Residential Waste Service Unit after the Residential Waste Service Unit is sold or new Resident(s) move in. Resident shall be responsible for maintaining the Carts at the Residential Waste Service Unit.

D. **Replacement of Carts.** The Town will provide replacement Carts at no additional expense to the Resident of a Residential Waste Service Unit where replacement is necessary because of normal wear and tear caused by proper usage. The Resident of a Residential Waste Service Unit shall be charged and shall be responsible for full payment of a fee set forth by Town Council resolution when replacement of a Cart is required because of something other than normal wear and tear caused by proper usage.

E. **Maintenance of Carts.** The Resident of a Residential Waste Service Unit shall ensure Carts are maintained in a clean and sanitary condition and used only for their intended purpose.

Section 10-8-11 Cart Costs for New Residential Waste Service Units

The initial cost of providing Carts, including the cost of assembling such carts, for newly constructed Residential Waste Service Units shall be set forth by Town Council resolution and shall be paid by the person applying for the initial building permit for each new Residential Waste Service Unit at the same time that the fees for the residential building permit are paid. When property with a Residential Waste Service Unit located thereon is annexed into the Town, the owner of such property shall pay the initial cost to the Town of providing such property with Carts.

Section 10-8-12 Ownership of Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste that is not: (i) Excluded Waste or (ii) otherwise prohibited under applicable law or this Chapter, that is set out for collection, transportation, storage, disposal or recovery by the Town shall become the sole property of the Town, or it's Contractor, when it is taken into the actual or constructive possession of the Town or it's Contractor.

Section 10-8-13 Rates, Charges, Fees and Payment

The Town Council by resolution may adopt, set or amend the fees, rates, payments, penalties and charges related to this Article 10-8, which resolution shall be on file with the Town Clerk. In addition, the following provisions shall apply:

A. When Residential Waste Services are made available, a monthly charge shall be imposed upon all Residential Waste Service Units in accordance with the Town resolution plus any additional fees, taxes, or charges, regardless of how they are designated, that are or may be imposed by the state or federal government, or by a regional authority, in respect to either individual or municipal action relating to this Article. Except as provided in subsection F below or Section 10-8-6 above, the basic monthly charges as described herein shall apply regardless of the nature and extent of services actually provided to a Residential Waste Service Unit by the Town.

B. In case of a multiple-dwelling unit, the charge shall be billed to the Resident whom the water bill is addressed and who shall be liable for the payment thereof.

C. All charges incurred pursuant to the provisions of this article shall become due and payable when a utility bill is prepared by the Town and shall become a personal debt of the Resident. Except when specific payment arrangements have been made in advance of the delinquent date, all charges levied pursuant to the provisions of this article shall become delinquent if unpaid twenty (20) calendar days after the utility bill is prepared.

D. It is the responsibility of the person or persons in whose name or names an account has been established to pay all charges in full and on a timely basis. Failure to receive a utility bill will not excuse the account holder or holders from full and timely payment for the services.

E. Charges for first and final bills with billing periods more or less than one (1) month shall be prorated.

F. The Town may discontinue monthly service charges to a Residential Waste Service Unit if the Town receives notice from the Resident or owner of the

Residential Waste Service Unit, in writing, that the Residential Waste Service Unit(s) have been permanently abandoned, or receives notice from the Town or county health officer that the Residential Waste Service Unit(s) have been condemned as not habitable, or unsanitary and dangerous to human life.

Section 10-8-14 Prohibited Acts

It shall be unlawful for any person to do any of the following, all of which shall be a civil code infraction as defined under Section 5-7-1(A), and subject to Article 5-7, of the Town Code:

A. To collect Solid Waste, Bulk Waste, or Program Recyclables from Residential Waste Service Units without an executed Agreement for the provision of such services.

B. To place or cause to be placed any Solid Waste, Bulk Waste, Program Recyclables, or Animal Waste upon the property of another without proper authority.

C. To deposit any Excluded Waste in any cart.

D. To place or cause to be placed any Solid Waste, Program Recyclables, or Animal Waste in the Cart belonging to another without proper authority.

E. To remove any materials, without proper authority, from any Cart belonging to another which contains materials set out for Residential Waste Services;

F. To place or cause to be placed any Solid Waste in the Cart designated by the Town for collection of Program Recyclables or Animal Waste.

G. To place or cause to be placed any Animal Waste in the Cart designated by the Town for collection of Solid Waste or Program Recyclables.

H. To place or cause to be placed any Program Recyclables in the Cart designated by the Town for collection of Animal Waste.

I. To encourage, permit or fail to restrain a vicious animal from interfering with employees performing Residential Waste Services acting in the course of their employment. "Vicious animal" means any animal of a vicious species or an animal of a domesticated species, including, but not limited to, cats and dogs, which is prone to, or known to, attack persons without provocation.

J. To park a vehicle in such a way as to obstruct access to a Solid Waste, Recycling, or Animal Waste Cart placed out for collection service, to obstruct any right-of-way, or to obstruct or interfere with Residential Waste Services in any other manner.

K. To do any act prohibited or to fail to do any act required under this Article.

L. To burn Solid Waste, except in incinerators, as may be permitted by the county and the Town. Any burning of Solid Waste must comply with the rules and regulations established by the Arizona Department of Health Services and the U.S. Environmental Protection Agency.

Section 10-8-15 Rules and Regulations

The Administrator shall make such rules and regulations as may be deemed reasonably necessary concerning the Residential Waste Services and other wastes by the Town, its authorized agents, licensees or permittees, including Contractor; or relating to the operation of any recycling or waste reduction program or other similar activities or facilities. Copies of such rules and regulations shall be filed with the office of the Town clerk. The rules and regulations shall be made available to the public upon request.

Section 10-8-16 Inspections

Town may conduct inspections of Carts to ensure compliance with, and knowledge of, the provisions of this Article. The Town may provide notice of compliance violations prior to undertaking formal enforcement action pursuant to procedures established by the Administrator. Inspections of restricted access areas on private property shall not be conducted without prior notice to the Resident or property owner. Prior to collection the Town shall have the right to inspect Carts and their contents.

Section 10-8-17 Vector Control

The Town has the authority to develop, administer, and enforce rules, regulations and procedures to control vectors in accordance with county and state vector control rules and regulations. All users shall be responsible for properly bagging materials consistent with, and otherwise complying with, such rules regulations and procedures.

Section 10-8-18 Cart Repossession

In addition to any other actions or remedies it may pursue, the Town has the authority to repossess Town owned Carts from Residents and/or property owners who fail to comply with the requirements of this Article.

Section 10-8-19 Termination of services; lien for unpaid charges

A. Any and all unpaid charges for Residential Waste Services provided pursuant to this Article shall constitute a lien on the real property, lot or tract of land benefited by the Residential Waste Services. The lien shall be imposed in accordance with the applicable law and unpaid charges under this Article may be consolidated with amounts subject to lien upon the Residential Waste Service Unit by the Town.

B. In addition, delinquent charges may be collected by a civil suit, instituted in the name of the Town by the Town attorney at the request of the Town at any time after the charges become delinquent. The remedy provided by this section is cumulative and supplemental to all other remedies provided under this article.

C. In addition, the Town may assign delinquent accounts to a bona fide collection agency for collection.

Section 10-8-20 Enforcement as a Civil Code Violation

Violations of this Article by any person are subject to the provisions of Article 5-7 of the Town Code and may be remedied and/or enforced through an enforcement action or any other remedy provided thereunder.

Section 10-8-21 Exemptions

A. Application for Exemption. A Resident may apply to the Administrator, in writing on forms provided by the Town, to have an individual Residential Service Unit be exempt from only the Solid Waste Services and Bulk Waste Services requirements of § 10-8-5 if both of the following requirements are met:

(1) The Residential Service Unit is on a Large Lot; and
(2) The Resident can establish to the satisfaction of the Administrator that the Resident has available and will utilize alternative services for disposal of Solid Waste that fully comply with all Town, county, state, and federal rules, regulations and statues that apply to such disposal.

B. Determination of Exemption. Upon a determination by the Administrator that all of the above requirements have been fully met, the Administrator shall have discretion to grant an exemption for the Residential Service Unit upon such conditions as the Administrator may determine are appropriate, if the Administrator determines that an exception is consistent with the purpose of this Article as set forth in § 10-8-1 of this Article and is in the best interest of the Town. A resident may appeal the determination of the Administrator by filing a written appeal with the Town Clerk within ten (10) business days after the date of the Administrator's determination, and all such appeals will be resolved by the Town Manager, if the Town Manager is not acting as the Administrator, or by the Town Council if the Town Manager is acting as the Administrator, within a reasonable time after the filing of the appeal.

C. Recycling Services Applicable to Exempt Residential Service Unit. Any Residential Services Unit granted an exemption as provided herein shall continue to receive Recycling Services, and other community-wide services, and shall be billed for and pay the fees, rates, taxes and other charges adopted by the Town applicable to Recycling Services pursuant to § 10-8-13 of this Article as long as the exemption is in effect.

CHAPTER 11 - TRAFFIC

Article 11-1 ENFORCEMENT[1]

It shall be the duty of the Town Law Enforcement and/or its designated agency to provide for the enforcement of the traffic regulations of the town and all of the state vehicle laws applicable to traffic in the town, to make arrests for traffic violations, to investigate traffic collisions, and to carry out all duties specially imposed upon the Town Law Enforcement agent by this Chapter.

Article 11-2 PERMANENT TRAFFIC CONTROL[1]

Section 11-2-1	Adoption of the Manual on Uniform Traffic Control Devices
Section 11-2-2	Traffic Control Devices
Section 11-2-3	Speed Limits
Section 11-2-4	Multi-Way Stop Controls
Section 11-2-5	Over-Dimensional (Oversize/Overweight) Loads
Section 11-2-6	Traffic Signals
Section 11-2-7	Crosswalks, School Zones, and Traffic Lanes
Section 11-2-8	Turn Restrictions
Section 11-2-9	One-Way Streets and Alleys
Section 11-2-10	Regulation of Traffic at Intersections
Section 11-2-11	Drivers to Obey Signs
Section 11-2-12	Processions
Section 11-2-13	Operation of Vehicles on Vacant Lots
Section 11-2-14	Driving on Private Property
Section 11-2-15	Stopping in a Roadway or Median – Prohibited Acts
Section 11-2-16	Exceptions
Section 11-2-17	Penalty

Section 11-2-1 Adoption of the Manual on Uniform Traffic Control Devices

The Town of Queen Creek adopts the Manual on Uniform Traffic Control Devices (MUTCD) handbook (most recently adopted version by the Arizona Department of Transportation) published by the Federal Highway Administration, and the Arizona Department of Transportation Supplement to the Manual on Uniform Traffic Control Devices handbook. Exceptions are noted in the following Sections of this Ordinance.

Section 11-2-2 Traffic Control Devices:

1. No person shall install or maintain in any area of private property used by the public, or intended for traffic using a public street, any sign, signal, marking, or other device intended to regulate, warn, or guide traffic, or which gives the appearance to a reasonable observer of being intended to regulate, warn, or guide traffic.

2. The Town reserves the right to remove any sign that is deemed a nuisance or public hazard, and may, at the discretion of the Town Traffic Engineer impose a reasonable charge to the property owner for the cost of removals from private property.

3. All permanently installed signing within Town right-of-way by private parties (developers) shall comply with Section 11-2-1, as well as the Towns relevant engineering standards, details, and specifications.

[1]Ordinance 384-07; Ordinance 460-09; Ordinance 575-15 Revised 10-2015

4. The Town reserves the right to charge monetary damages to any party or organization that is found responsible for damage to any Town owned traffic control device.

Section 11-2-3 Speed Limits:

The Town Traffic Engineer or Council will determine and post the appropriate posted speed limit for all street segments based upon the application of accepted engineering standards, practices, and judgment.

1. All local residential streets shall have a prima facie speed limit of 25mph; these types of streets may or may not be posted with a physical sign.

2. Reduced speed limits for school zones (whenever a school fronts onto an arterial street with a posted speed of 45mph or greater) are to be posted either 30mph or 35mph, and are to be in force between the hours of 7:30am to 3:30pm weekdays.

3. Temporary reduced speed limits for construction and maintenance work zones, special events, or any other activity within or adjacent to the right-of way that would require a reduced regulatory speed limit are to be determined at the time of approval of the Traffic Control Plan. All installations of temporary speed limits shall conform to the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) handbook and the Arizona Department of Transportation Supplement to the MUTCD.

Section 11-2-4 Multi-Way Stop Controls:

Council authorizes the Town Traffic Engineer to establish, as necessary for the safe and efficient flow of traffic, multi-way stop controls that conform to the requirements of the Manual on Uniform Traffic Control Devices handbook.

Section 11-2-5 Over-Dimensional (Oversize/Overweight) Loads:

Loads that are considered over-dimensional in nature are required to possess a valid permit issued from the jurisdiction at the point of origin. The responsible party will be required to file a routing request with the Town of Queen Creek at least 3-business days prior to the anticipated move date. The Town will review the request, the proposed route, as well as the proposed time and schedule to ensure that the load can safely operate. Town staff will approve the route, make recommendations, or deny the load access to the Town's right-of-way.

Over-dimensional loads traveling through, originating or terminating within the Town may be required to have a law enforcement escort.

Section 11-2-6 Traffic Signals:

Council authorizes the Town Traffic Engineer to conduct Traffic Signal Warrant Studies to determine the placement of new traffic signals, and to operate traffic signals at intersections as deemed appropriate by such studies.

Section 11-2-7 Crosswalks, School Zones, and Traffic Lanes:

Council authorizes the Town Traffic Engineer:

1. To designate and maintain, by appropriate device, marks or lines upon the surface of the roadway so as to establish crosswalks at locations where there are substantial number of pedestrians crossing the roadway, and at such other places as may be necessary.

2. To establish school zones of such kind and character and at such places as may be necessary for the protection of school children.
3. To add pavement markings as necessary within the Town's right-of-way.

Section 11-2-8 Turn Restrictions:

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street or so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

Council authorizes the Town Traffic Engineer to:

1. Place markers, buttons or signs within or adjacent to an intersection indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law.

2. To determine those intersections at which drivers of vehicles shall not make a right-, left- or U-turn, and shall have placed proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs, or such signs may be removed when such turn(s) are permitted.

Section 11-2-9 One-Way Streets and Alleys:

Council authorizes the Town Traffic Engineer to designate any street or alleys which is to be limited to one-way traffic.

Proper signing shall be installed at appropriate locations to indicate the one-way condition. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Section 11-2-10 Regulation of Traffic at Intersections:

Council authorizes the Town Traffic Engineer to designate through streets, intersections where stops are required, and intersections where vehicles shall yield the right-of-way.

Section 11-2-11 Drivers to Obey Signs:

Whenever traffic signs are erected as provided in this chapter, every driver of a vehicle shall obey such signs unless directed to proceed by the town law enforcement agent or a lawful traffic control device. No driver shall drive upon or through any unpaved right-of-way, private property, vacant lot or similar property to avoid obedience to any regulation included in this chapter.

Section 11-2-12 Processions:

No procession or parade, except funeral processions, shall be held without first securing a permit from the town, and all such requests for permits shall state the time, place of formation,

proposed line of march, destination and such other regulations as the Town may set forth therein.

A funeral procession composed of a procession of vehicles shall be identified by such methods as may be determined and designated by the Town.

No driver of a vehicle shall drive between the vehicles comprising of an authorized procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic signals or the town law enforcement agent.

Each driver in a 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.

Section 11-2-13 Operation of Vehicles on Vacant Lots:

No person shall operate a vehicle on or across any portion of a vacant lot other than on an established dust-proof driveway, except during activities authorized by the Town.

Section 11-2-14 Driving on Private Property:

No person shall operate, drive or leave any motor vehicle, motorcycle, motor scooter, mini-bike, trail bike, dune buggy, jeep or other form of transportation propelled by an internal combustion engine upon the private property of another or upon public property which is not held open to the public for vehicle use, without permission from the owner of the property or the person who is entitled to immediate possession thereof, or the authorized agent of either.

Whenever any person is stopped by a law enforcement officer for investigation of a violation of this section, the person shall show proof that the permission required has been obtained and from whom permission was obtained.

Section 11-2-15 Stopping in a Roadway or Median – Prohibited Acts

No pedestrian may stop or remain in the portion of any roadway designed for vehicular use or in a painted or raised traffic island or median not specifically designated for use by pedestrians except to wait to cross the roadway at the next pedestrian signal or, in the absence of a pedestrian signal, when traffic has cleared or yielded.

Section 11-2-16 Exceptions

A. The provisions of this Section 11-2-15 shall not apply to persons occupying a median or roadway while conducting activities related to maintenance, surveying, construction, landscape maintenance, landscape improvements, or other similar activity necessary for the safe and efficient operation of Town streets; provided that all such operations must be conducted only upon approval of the Public Works Director or designee, and upon such conditions as the Public Works Director shall require, such as adjacent lane closures, use of appropriate safety vests or gear, and/or other safety precautions designed to ensure the safety of motorists and those temporarily occupying the median for these purposes.

B. The provisions of Section 11-2-15 shall not apply to emergency personnel occupying a median or roadway in response to an accident, safety hazard, or other emergency situation. Emergency personnel temporarily occupying a median or roadway for these

purposes should take adequate precautions to help ensure proper notification of the emergency situation if feasible and to provide such safety measures as are appropriate and reasonably available in light of the emergency situation presented.

Section 11-2-17 Penalty

A violation of Paragraph A of this Section 11-2-15 shall be a Class 1 misdemeanor.

Article 11-3 TEMPORARY TRAFFIC CONTROL[2]

Section 11-3-1	Permission to Access Right-of-Way
Section 11-3-2	Street Closures
Section 11-3-3	Temporary Traffic Control Plans
Section 11-3-4	Certified Persons
Section 11-3-5	Temporary Signing
Section 11-3-6	Flaggers
Section 11-3-7	Haul Routes
Section 11-3-8	Arrow Boards
Section 11-3-9	Off-Duty Law Enforcement Officer[2]
Section 11-3-10	Allowable Restriction/Closure Hours/Days
Section 11-3-11	Directing Traffic

Section 11-3-1 Permission to Access Right-of-Way:

Any contractor, agency, utility, or any other person that is performing work within the right-of-way shall obtain an Encroachment Permit from the Town's Community Development Department prior to entering the right-of-way. The permit will not be valid without the required Traffic Control Plan Application and Traffic Control Plan being submitted to and approved by the Town PRIOR to entering the right-of-way. The Traffic Control Plan Application and Traffic Control Plan shall be on-site and attached to the permit whenever activities are taking place in the right-of-way, and shall be produced upon request by Town staff or law enforcement.

Section 11-3-2 Street Closures:

Requests for street closures (excluding special events as determined by the Town) shall be made a minimum of 30-days prior to the date needed. Requests shall be made in writing and shall include a Traffic Control Plan Application and a Traffic Control Plan that meets the requirements of Section 11-3-3. Requests will be reviewed and approved based upon need and potential life/safety issues. If a road closure request is granted, the contractor will be held to the dates requested and approved by the Town. Upon approval, the contractor shall provide the Town with a Cashier's Check (bond) in the amount of Ten Thousand Dollars ($10,000.00) made payable to the Town of Queen Creek. Should the contractor not complete their work in the agreed upon time limits, the bond shall be subject to forfeit, and a Two Thousand Dollar ($2,000.00) per day fine may be levied for each day the work is not completed. The contractor may be directed on the last day of authorized work to begin work to open the road. The Town reserves the option of taking the necessary steps to open the road should the need arise.

Section 11-3-3 Temporary Traffic Control Plans:

A Traffic Control Plan in complexity that matches the work being performed and proximity to traffic will be required whenever construction, maintenance or other activities are taking place

[1]Ordinance 384-07; Ordinance 460-09; Ordinance 575-15 Revised 10-2015

within the Town's right-of-way. A Traffic Control Plan that is computer generated and that is designed and drawn by a person that is currently certified as a Traffic Control Supervisor by the American Traffic Safety Services Association (ATSSA) will be required along with a Temporary Traffic Control Plan Application (provided by the Town) at least two (2) business days prior to the start of work. Traffic Control Plans shall be submitted directly to the Town, using the established procedure, by the individual or company providing the temporary traffic control services.

Section 11-3-4 Certified Persons:

Any temporary traffic control that is placed within the right-of-way on an arterial street, or as required by the Town shall be completed under the direct, on-site supervision of a person that is currently certified as a Traffic Control Technician by the American Traffic Safety Services Association (ATSSA). The Technician shall carry ATSSA-issued proof of certification on his/her person at all times when working within the right-of-way, and shall produce the certification, as well as state-issued photo identification, upon demand by Town staff or law enforcement.

Section 11-3-5 Temporary Signing:

All temporary signing in place due to the requirements of a Traffic Control Plan shall be a minimum of ASTM Type IV sheeting, a minimum of 36"x36" (for Warning Series signs), and shall be mounted on spring type stands. All signing for projects considered to be Long-Term Stationary in nature by the Manual on Uniform Traffic Control Devices shall be post mounted.

Section 11-3-6 Flaggers:

Any civilian flagger working within the Town's right-of-way shall hold current certification as a flagger by the American Traffic Safety Services Association (ATSSA), or a pre-approved equivalent, and shall carry proof of certification at all times when working within the right-of-way. Certified flaggers may be required to provide proof of certification prior to working within the Town's right-of-way. Off-duty law enforcement officers may be used in lieu of certified flaggers.

No civilian shall be permitted to control traffic at an intersection at any time.

Section 11-3-7 Haul Routes:

If construction activities are determined by the Town to require special routing of haul trucks to prevent impacts on surrounding streets, neighborhoods, or businesses, the contractor will be required to develop, submit, and utilize an approved haul route. A Traffic Control Plan Application and Traffic Control Plan may be required depending upon the complexity of the haul. Any request for an approved haul route shall contain, at a minimum, the following:

- *Origin and destination of the haul route;*
- *A clear and legible plan or map illustrating the proposed haul route, or portion of the haul route within Town limits, showing all roadways on which the haul is proposed, crossing arterials, and the route to be traveled;*
- *Frequency, number, and nature of trucks involved in the haul;*
- *Location and number of certified flaggers (required when trucks are entering or leaving the right-of-way at a point of origin and/or destination, and at the discretion of the Town, when trucks are turning across traffic);*

- *Copy of current Maricopa County Dust Permit (if applicable); and*

- *Traffic Control Plan Application and Traffic Control Plan (if applicable).*

Haul routes will not be permitted through areas where active school crossing controls are in place, during peak travel times or days, within the Town Center area (Ellsworth Rd between Chandler Heights Rd and Rittenhouse Rd, and Ocotillo Rd between Rittenhouse Rd and Hawes Rd), or at the direction of the Town. Additional application requirements, route restrictions, and costs may apply to hauls which involve oversize or overweight vehicles or hazardous materials.

Section 11-3-8 Arrow Boards:

Arrow boards are required whenever a lane merge is in place in the right-of-way; use in shifting conditions shall only be as approved by the Town.

Section 11-3-9 Off-Duty Law Enforcement Officer:

A uniformed law enforcement officer shall be present as required as a part of an approved traffic control plan or as directed by the Town Traffic Engineer or designee. Only Maricopa County Sheriff's Office (MCSO) deputies regularly assigned to the Queen Creek District shall be permitted to be utilized within the Town Of Queen Creek. If a Queen Creek District MCSO Deputy is not available, only the District or the Town Traffic Engineer or designee may authorize the use of a post-certified peace officer from another jurisdiction.

Section 11-3-10 Allowable Restriction/Closure Hours/Days:

No non-emergency activity that reduces lane width or usable road service shall be permitted to take place between the hours of 5:00am and 8:30am or 4:00pm at 7:00pm on non-holiday weekdays without prior authorization from the Town.

No activity shall take place within the Town's right-of-way on Saturday, Sunday or Town observed holidays without prior approval. Contractor's opting to work weekends, observed holidays or other than normal work hours may be charged for hours worked by Town staff at current overtime rates.

Section 11-3-11 Directing Traffic:

1. The town law enforcement and fire protection agencies are hereby authorized to direct all traffic by voice, hand or signal.

Article 11-4 PARKING

Section 11-4-1	Method of Parking
Section 11-4-2	Blocking Traffic
Section 11-4-3	Authority to Erect Signs Restricting Parking
Section 11-4-4	Parking Vehicles on Sidewalks
Section 11-4-5	Restricted Parking Areas for the Physically Disabled
Section 11-4-6	Stopping, Standing or Parking Prohibited
Section 11-4-7	Trailer or Semi-Trailer Parking
Section 11-4-8	Parking Vehicles for Sale in the Public Right-of-Way

Section 11-4-1 Method of Parking:

[1]Ordinance 384-07; Ordinance 460-09; Ordinance 575-15 Revised 10-2015

Except as otherwise posted, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right hand wheels of such vehicle parallel to and within eighteen inches of the right hand curb.

Section 11-4-2 Blocking Traffic:

1. No person shall stop, stand or park any motor vehicle, or other vehicle, upon a street in the Town in such a manner or under such conditions as to leave available less than twenty 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 control devices, or as directed by the town law enforcement or fire protection agency.

2. No person shall park a motor vehicle, or other vehicle, within an alley or entrance to a private driveway except for the loading or unloading of materials, and not then unless such loading or unloading can be accomplished without blocking the alley to the free movement of vehicular traffic.

Section 11-4-3 Authority to Erect Signs Restricting Parking:

Council authorizes the Town Traffic Engineer to have signs erected requiring parking at an angle to the curb, allowing parking on the left hand curb on one-way streets, notifying drivers that parking is prohibited and restricting parking, stopping and/or standing in any way that may be necessary for the safe and efficient movement of traffic. When such signs have been erected, no person shall stop or stand a vehicle in disobedience to such parking restrictions.

Section 11-4-4 Parking Vehicles on Sidewalks:

No person shall park any vehicle, whether in usable condition or not, nor shall an owner permit his vehicle to be parked, upon any sidewalk in the town.

Section 11-4-5 Restricted Parking Areas for the Physically Disabled:

1. No person shall park a vehicle in a parking space on either public or private property set aside and identified for use only by persons with physical disabilities, unless the vehicle has displayed thereon a distinguishing insignia or numbered plates bearing the international wheelchair symbol as provided in A.R.S. § 28-881. The handicap card shall be placed on the dashboard so as to be visible.

2. Subsection 1 of this section shall apply only to those parking spaces that are identified with standard signs or other markers, as approved by the town.

Section 11-4-6 Stopping, Standing or Parking Prohibited:

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a Town Law Enforcement agent or traffic control device, either on public or private property, in any of the following places:

1. Within fifteen feet of a fire hydrant.

2. In any area designated as a fire lane.

3. In any area designated as prohibiting stopping, standing, or parking.

4. Within a marked school crossing zone.

Section 11-4-7 Trailer or Semi-Trailer Parking:

Trailers or semi-trailers designed or intended to be drawn behind a motor vehicle shall not be parked upon a street, alley, or other public right-of-way for a period of time longer than two (2) hours, except commercial vehicles may be parked for a longer period of time only when such parking is necessary while actually carrying out a lawful commercial purpose. At no time shall any trailer or semi-trailer attached or not to a truck or tractor is parked so as to block a lane of travel on a public street, or otherwise interfere with the safe and efficient movement of traffic.

Section 11-4-8 Parking for Certain Purposes Prohibited:

No person shall park a vehicle upon any portion of the Towns right-of-way for the specific purpose of:

1. Displaying such vehicle for sale.

2. Washing, greasing, or repairing such vehicle except repairs necessitated by any emergency.

3. Displaying advertising.

4. Displaying commercial exhibits.

CHAPTER 12 LAND USE

ARTICLE 12-1 LAND SPLITS[1]

12-1-1 Requirements Generally
12-1-2 Building Permit Issuance Restriction
12-1-3 Conformance Requirements
12-1-4 Applicability of Land Split and Subdivision Processes
12-1-5 Application and Approval Procedures
12-1-6 Application Requirements
12-1-7 Land Split Map Requirements
12-1-8 Administrative Action on Application
12-1-9 Approval Criteria
12-1-10 Recordation
12-1-11 Appeals to Council

Section 12-1-1 Requirements Generally

The division of any land, lot, parcel or unit for the purpose of sale or lease, whether immediate or future, into two or three lots, parcels or units any one of which is two and one-half acres or less, shall require the submittal and approval of a parcel plat, as described hereinafter. Sale or lease includes every disposition, transfer or offer or attempt to dispose of or transfer land or an interest or estate thereof.

Section 12-1-2 Building Permit Issuance Restriction

No building permit shall be issued for the construction of any building or structure located on a lot or parcel created in violation of the provisions of these regulations.

Section 12-1-3 Conformance Requirements

A. A land split map shall conform to all applicable policies of the town general plan.

B. A land split map shall conform to all applicable regulations of the town zoning ordinance.

C. A land split map shall conform to all present and future street classification plans and requirements.

Section 12-1-4 Applicability of Land Split and Subdivision Processes

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[1]Ordinance 21-91

The regulations contained in this article apply to all divisions of land created for sale or lease within the corporate limits of the town defined to be a land split.

A. It is unlawful for any person, partnership or other legal entity to create for sale or lease any parcel that is subject to the requirements of this article until an approved land split map complying with the provisions hereof has been recorded with the recorder's office of the county wherein the platted area lies.

B. The division of any property into two or more parcels, if a new street is involved, shall proceed through the subdivision process.

C. The division of any property, the boundaries of which have been fixed by a recorded subdivision plat, into more than two parcels shall proceed through the subdivision process.

D. The creation of four or more units having the right of exclusive occupancy coupled with an undivided interest in the land, such as in a condominium, horizontal property regime, cooperative, community apartment, townhouse or similar project shall proceed through the subdivision process.

E. The creation of two or three units having the right of exclusive occupancy coupled with an undivided interest in the land, such as in a condominium, horizontal property regime or similar project shall proceed through the land split map process.

F. Boundary adjustment plats and deeds, where the land taken from one parcel is added to an adjacent parcel, need not follow the land split requirement provided approval has been given in writing by the planning and building director, and provided that the proposed adjustment does not:

1. Create any new lots;

2. Render any new lots created by the boundary adjustment smaller than those existing prior to the boundary adjustment;

3. Render the setbacks of any new lots created by the boundary adjustment smaller than those existing prior to the boundary adjustment;

4. Impair any existing access, easements or public improvements.

Section 12-1-5 Application and Approval Procedures

A. The division of land defined by this article to be a land split requires the approval of a land split map by the planning department or the council.

B. The purpose of the land split map review is to determine the appropriateness of the access and lot design with respect to the contours of the land, to determine whether the setbacks of existing development are being rendered nonconforming with the creation of new lot lines, to determine if a subdivision is being created, and to determine whether or not the proposed land split conforms with town policies and ordinances. Before proceeding with any division of land or the preparation of a parcel plat, the owner or his agent should meet with the planning department for an informal discussion on the proposed land division.

Section 12-1-6 Application Requirements

Applicants requesting land split map approval shall submit the following to the planning department:

A. A completed application form;

B. A nonrefundable seventy-five dollar filing fee to offset the costs of investigating and processing the application;

C. Three blueline or blackline prints folded into a nine-inch by twelve-inch size and one mylar (which may be submitted later, but prior to final approval of the land split map);

D. A title report dated not more than thirty days prior to submittal of the application.

Section 12-1-7 Land Split Map Requirements

A. The land split map shall be submitted on a transparent reproducible polyester film drawn with india ink at a scale large enough to show all details clearly (normally one inch equals one hundred feet or larger) on a sheet eighteen by twenty-four inches.

B. The land split map shall show or contain the following information:

1. A title, to read: Town of Queen Creek Land Split Map (Case Number);

2. Graphic and written scale, north indicator and date of preparation;

3. Legal description of the property;

4. Location and description of existing and proposed monuments to which all bearings, dimensions, angles and similar data shall be referenced. Such data shall be tied to the town datum system;

5. Boundaries of the property fully balanced and closed showing all bearings and distances (in feet and decimals thereof) determined by an accurate survey in the field;

6. By note or a legend, identification of any symbols used on the map;

7. Bearings and dimensions of all parcel lines with each parcel identified by letter and indicating the net area in square feet of each parcel;

8. Name, course, length and width of existing and proposed street dedication;

9. Course, length and width of existing and proposed private access, utility, public service and drainage easements;

10. The identification of adjacent subdivisions and land split maps by record data;

11. Delineation on the map of any areas identified on the flood insurance rate map as special flood areas;

12. The location of existing structures;

13. A note stating that there are no visible encroachments except as shown on this plat;

14. Paragraphs legally setting forth:

    a. Owner's certificate

    b. Acknowledgment

    c. Surveyor's certificate and engineer's certificate, if applicable

    d. Certificate of approval (town)

    e. Recorder's certificate

    f. Dedication of roadways and/or easements, if applicable.

Section 12-1-8 Administrative Action on Application

A. The planning department shall review the application and make a determination as to its completeness. The department shall advise the applicant of deficiencies if the application is determined to be incomplete.

B. Upon determining that an application is complete, the planning department may distribute materials to all appropriate agencies and utility providers for their recommendations.

C. The planning department shall render a written decision on the proposed land split.

D. A copy of the decision shall be sent to the applicant, advising him that he may appeal the decision to the town council.

Section 12-1-9 Approval Criteria

The planning department and the town council, in evaluating and making decisions on land split proposals, shall consider the following criteria:

A. The land split proposal's consistency with the town's general plan;

B. The proposal's conformity to the town's zoning ordinance;

C. The proposal's conformity to other applicable sections of the code;

D. The proposal's conformity with the town's street classification plan;

E. The proposal's lot size and design with respect to the site's topography;

F. The identification of any setback problems with respect to any existing development on the property and the new parcel boundaries to be created;

G. A determination from the title information and lot/street design that a subdivision is not being created;

H. That, prior to recordation, the signatures written in india ink and all required stamps are in place;

I. Other pertinent criteria.

Section 12-1-10 Recordation

The approved mylar copy, fully executed and reflecting all requirements of approval, shall be recorded in the Maricopa County recorder's office with four copies thereof returned to the planning department.

Section 12-1-11 Appeals to Council

An appeal of the department's decision must be filed with the town clerk's office within thirty days of the date of the decision. The town council shall consider the appeal no earlier than fourteen days nor later than forty-five days from the date of the filing of the appeal.

CHAPTER 13 FLOOD CONTROL

ARTICLE 13-1 DRAINAGE AND EROSION PROVISIONS[1]

13-1-1 Designation of Authority
13-1-2 Technical Design Specifications
13-1-3 Floodplain Management Regulations[2]

Section 13-1-1 Designation of Authority

The Town designates the Maricopa County Flood Control District and Pinal County Flood Control District as the enforcement authority for all flood plain management activities within the areas of special flood hazard as designated by the Federal Emergency Management Agency, Flood Insurance Rate Maps and for those areas identified by the Maricopa County Flood Control District and Pinal County Flood Control District to be areas of special flood concern within the corporate limits of the town. For all other lands not within an area of special flood hazard as designated by the Federal Emergency Management Agency, Flood Insurance Rate Maps or designated areas of special flood concern by the Maricopa County Flood Control District or Pinal County Flood Control District**,** the authority for enforcement of drainage and erosion provisions shall be the Town or other designated agent.

Section 13-1-2 Technical Design Specifications

The following listed publications, copies of which are on file in the office of the town clerk, are hereby designated for use on all building permit requests:

A. DRAINAGE DESIGN MANUAL FOR MARICOPA COUNTY, ARIZONA, VOLUME I HYDROLOGY **,** JANUARY 1, 1995

B.

C. DRAINAGE DESIGN MANUAL FOR MARICOPA COUNTY, ARIZONA VOLUME II HYDRAULICS, JANUARY 28, 1996

D. DRAINAGE DESIGN MANUAL FOR MARICOPA COUNTY, ARIZONA VOLUME III EROSION CONTROL, JANUARY 1, 1993

D. PINAL COUNTY DRAINAGE MANUAL – VOLUME I: DESIGN CRITERIA, AUGUST 2004

E. PINAL COUNTY DRAINAGE MANUAL – VOLUME II: DESIGN METHODOLOGY & PROCEDURES, AUGUST 2004

Ordinance 414-07

SECTION 13-1-3 FLOODPLAIN MANAGEMENT REGULATIONS

13-1-3 A. The Town Manager of the Town of Queen Creek is appointed as the National Flood Insurance Program Floodplain administrator for the Town and is responsible for coordinating with the Flood Control District Of Maricopa County and Pinal County and will serve as the community point of contact on National Flood Insurance Program issues for County, State and Federal officials.

13-1-3 B. Those public records entitled "Flood Insurance Study for Maricopa County and Incorporated Areas with accompanying Flood Insurance Rate Maps dated SEPTEMBER 30, 2005" and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the Town Clerk, are hereby adopted by reference, as the basis for establishing the special flood hazard areas for floodplain management in the Town of Queen Creek. The special flood hazard areas documented in the Flood Insurance Study and Flood Insurance Rate Maps are the minimum area of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

13-1-3 C. That public record designated as the "Floodplain Management Regulations for Maricopa County 2006 revision AND ALL SUBSEQUENT AMENDMENTS AND/OR REVISIONS, three copies of which shall be kept on file in the office of the town clerk, is hereby adopted as the legal basis for implementing floodplain management in this community.

13-1-3 D. Those public records entitled "Flood Insurance Study For Pinal County" dated March 5, 1990, with accompanying flood insurance rate maps dated August 15, 1983, and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the town clerk, are hereby adopted by reference as the basis for establishing the special flood hazard areas for floodplain management in the Town of Queen Creek. The special flood hazard areas documented in the flood insurance study and flood insurance rate maps are the minimum area of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

13-1-3 E. That public record designated as the "Pinal County Floodplain Management Ordinance" dated August 2006, and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the town clerk, is hereby adopted as the legal basis for implementing floodplain management in this community**.**

CHAPTER 14 STREETS AND SIDEWALKS

ARTICLE 14-1 SIDEWALKS[1]

14-1-1 Sidewalk Maintenance
14-1-2 Obstructions in Sidewalk
14-1-3 Penalties

Section 14-1-1 Sidewalk Maintenance

All persons owning or occupying land or places of business within the town shall keep the sidewalk or public places fronting or bordering their property, including the area between the sidewalk and the curb, free of weeds or grass in excess of ten inches. Trees, shrubs and other landscaping planted in the area between the sidewalk and the curb shall be maintained by the adjacent landowner or occupant in such a way as not to impede, obstruct or interfere with the passage and or public accessibility of any sidewalk or street including, without limitation, the passage of street sweeping and other street cleaning equipment, and/or personnel. In the event the owner or occupant does not maintain such trees, shrubs, or landscaping in the manner required by this Section, the Town may cut or trim such trees, shrubs or plant growth, or otherwise take measures necessary to eliminate the impediment, obstruction or interference with the passage on the sidewalk or street.

Section 14-1-2 Obstructions in Sidewalk

No owner or occupant of land shall allow or permit obstructions of any kind (i.e. garbage, debris, decomposed granite or landscape materials, trees, shrubs or plant growth, etc.) to impede, obstruct or interfere with the passage of any public sidewalk; provided however, this section shall not prohibit the temporary storage of such matters in authorized receptacles for collection, or the passage of sidewalk cleaning and repair equipment and/or personnel, within the Town. In the event any owner or occupant of land allows trees, shrubs, or plant growth on that land to impede, obstruct or interfere with the passage of any sidewalk including, without limitation, the passage of sidewalk cleaning and repair equipment and/or personnel, the Town may cut or trim such trees, shrubs or plant growth, or otherwise take measures necessary to eliminate the impeding, obstruction, or interference with the passage on the sidewalk.

Section 14-1-3 Penalties

In addition to any other penalties prescribed by law, any person found violating this Article after 30 days written notice is subject to a civil penalty of $100 for the first offense, and $500 for each subsequent offense. Each day shall be considered a separate offense.

STREETS AND SIDEWALKS

ARTICLE 14-2 STREETS[1]

14-2-1 Obstructions in Street
14-2-2 Open Junk Storage Prohibited
14-2-3 Draining onto Street Prohibited
14-2-4 Penalties

Section 14-2-1 Obstructions in Street

No owner or occupant of land shall allow obstructions of any kind (i.e. garbage, debris, decomposed granite or landscape materials, trees, shrubs or plant growth, etc) to impede, obstruct or interfere with the passage of any street or alley including without limitation, the passage of street sweeping and other street cleaning and repair equipment and/or personnel, within the Town or to diminish the visibility of any traffic control device or signal. In the event any owner or occupant of land allows trees, shrubs or plant growth on that land to impede, obstruct or interfere with the passage of any street or alley, including without limitation, the passage of street cleaning and repair equipment and/or personnel, the Town may cut or trim such trees, shrubs or plant growth, or otherwise take measures necessary to eliminate the impeding, obstruction, or interference with the passage of the street and may charge the cost of such trimming, cutting, or other measures to the owner of the land.

Section 14-2-2 Open Junk Storage Prohibited

No person shall deposit, store or maintain any garbage or junk that is visible from beyond the lot boundaries, except as authorized for collection.

Section 14-2-3 Draining onto Street Prohibited

No person shall deposit in, sweep upon or permit to drain into any public right-of-way or public place of the town any garbage, junk, obstruction or similar matter or any hazardous material which is offensive to sight or smell or impedes passage or is detrimental to public health.

Section 14-2-4 Penalties

In addition to any other penalties prescribed by law, any person found violating this Article after 30 days written notice is subject to a civil penalty of $100 for the first offense, and $500 for each subsequent offense. Each day shall be considered a separate offense

[1]Ordinance 84-96; Ordinance 383-07 and Ordinance 557-14

STREETS AND SIDEWALKS

ARTICLE 14-3[1] SCALLOPED STREET ASSESSMENTS

14-3-1 Definitions.
14-3-2 Exemptions[2]
14-3-3 Required.
14-3-4 Approval of Owner's Plans.
14-3-5 Construction Prior to Development; Assessment Policy.
14-3-6 Assessment Procedure.
14-3-7 Right-of-way.
14-3-8 Collecting unpaid assessments at time of development.

Section 14-3-1 Definitions.

The following words, terms and phrases, when used in this section, shall have the following meanings ascribed to them:

"*Cost"* means the actual cost of:

(1) Construction of the public street improvements as determined by the construction contract price.
(2) Inspection and permit fees.
(3) Engineering fees required for the preparation of plans and specifications.
(4) Other incidental fees required to complete the improvements.

"Development" includes construction of residential, commercial or industrial buildings or structures or major additions or alterations to existing structures and includes new buildings or structures on property having existing buildings or structures situated on such property. When such property is zoned for agricultural or single family residential use at the time of assessment, development shall also require a change of use or purpose.

"*Major addition or alteration"* means any addition or alteration to an existing building hereafter made where the addition or alteration increases total floor area of the building by twenty-five percent (25%).

"Owner" means the person or legal entity that owns property adjacent to the street right-of-way.

"Right-of-way" means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved or dedicated to the general public for street, highway, alley, public utility, pedestrian walkway, bikeway or drainage purposes.

"Street improvement" means, but is not limited to, asphaltic concrete surfacing, aggregate base, curb and gutters, sidewalks or valley gutters, storm drainage facilities and irrigation tiling.

"*Streets"* means the full width of the right-of-way of any road, street, highway, alley, land or pedestrian walkway, whether or not such road, street, highway, alley, land or pedestrian right-of-way has been improved or accepted for maintenance by the Town.

[1]Ordinance 470-10; Ordinance 509-12
[2]Ordinance 552-14

Section 14-3-2 Exemptions[1]

(a) Street improvements otherwise required by this article shall not be required where the construction, alteration or addition consists solely for installation or replacement of mechanical equipment.

(b) The Town's Redevelopment Area, established by Ordinances 517-05 and 518-05, as amended, is exempt for the application of this Article, provided however that where deemed appropriate by the Town Council on a case by case basis, street improvements may be required pursuant to the Town's zoning authority.

Section 14-3-3 Required

(a) *Construction at time of development.* At the time of development of property within the Town, the proprietor or owner of the property shall construct street improvements within and adjacent to such property.

(b) *Responsibility for costs.* The costs of all street improvements shall be the full responsibility of the proprietor or owner of the property.

(c) *Temporary deferral.* If, in the opinion of the Town Engineer, the installation of off-site improvements would not feasible from an engineering standpoint, the installation of improvements may be temporarily deferred, provided a cash bond, irrevocable letter of credit, or similar instrument approved by the Town Attorney, is filed with the Town for the cost of the improvements. Estimated costs of the improvements shall be established by the owner or proprietor's engineer and reviewed and approved by the Town Engineer.

(d) *Construction prior to development.* If the Town Council determines that street improvements within or adjacent to the property are necessary prior to the development of the property, the Council may order street improvements to be constructed by the Town as provided in Section 14-3-5.

Section 14-3-4 Approval of Owner's Plans

The owner or proprietor of property intended to be developed shall submit the street improvement plans to the Town for approval. No building permit shall be issued until the street improvement plans have been approved by the Town Engineer. Street improvements shall be constructed in accordance with the plans approved by the Town Engineer and in accordance with the Town's design principles and standards set forth in Chapter 7, Article 3 of the Town Code and the Town of Queen Creek Design Standards and Procedures Manual. No certificate of occupancy shall be issued until street improvements are constructed in accordance with the approved plan unless the certificate of occupancy is otherwise approved by the Town Engineer.

Section 14-3-5 Construction Prior to Development; Assessment Policy

Where the Town Council has determined that certain streets within the Town shall be constructed or improved prior to development of the property adjacent to such streets, the Council may order such streets to be constructed or improved at the Town's expense. Such

expense shall be assessed against the adjoining property subject to the following:

(1) The assessment of property, if adjacent arterial streets are involved, shall not exceed the cost of improving more than one-half (1/2) of the width or more than one thousand (1,000) lineal feet of such adjacent arterial street, except that if any parcel of land is presently being used for single-family residential use and the width of such does not exceed two hundred (200) lineal feet, such property shall not be assessed greater than one-half (1/2) the cost of the average residential street within the Town.

(2) The assessment of property shall not exceed the actual costs incurred by the Town at the time of construction.

Section 14-3-6 Assessment Procedure.

(a) *Determination of improvement's necessity; notice of hearing; contents.* The Town Council, at a public hearing, shall determine the necessity of street improvements if the cost thereof is to be assessed against adjacent property. Prior to the public hearing, the Planning and Zoning Commission shall, at a duly noticed public meeting, review the necessity of the street improvements and provide a recommendation to the Council. Notice of the Council hearing shall be given to the owners, and other affected persons who would be assessed for the costs of improvements by certified mail no less than fifteen (15) days prior to the date of the hearing. The notice of hearing shall contain:

(1) A description of the proposed street improvements.

(2) The estimated cost of assessment for each affected parcel of property.

(3) The date, time and place that the Town Council shall consider the necessity of improvement and adoption of a resolution of intention.

Notice shall also be published in a weekly newspaper on (1) time each week for two (2) consecutive weeks, or in a daily newspaper four (4) consecutive times. In addition, notice shall also be conspicuously posted along the line of the proposed improvement at least fifteen (15) days prior to the hearing on necessity of the improvements.

(b) *Filing of objection.* The property owners and any other persons directly interested in the work or in the assessment may, prior to the time fixed for the hearing, file in the office of the Town Clerk a written objection, briefly specifying the grounds for objection.

(c) *Hearing.* At the time of public hearing, the Town Council shall hear and pass upon any objections to the proposed improvements, and its decision shall be final and conclusive. It may modify the extent of the proposed improvements and proceed without the necessity for republishing, reposting and remailing new notices. At the conclusion of the hearing, the Town Council may pass its resolution of intention directing that plans, specifications and estimates of the cost and expenses of the proposed improvements be finalized by the Town Engineer, filed with the Clerk and filed in the official records of the county recorder, and order that a call for sealed bids be made.

(d) *Completion of improvements; determination of costs; additional hearing; notice; contents of notice*. Upon completion of the improvements, the Council shall by resolution, at a public hearing, determine the cost of the improvements and assess against the properties adjacent to the street improvement, the total amount of the costs and expenses of the work in accordance with Section 14-3-5. Notice of this public hearing shall be given to the property owner, and other affected persons who would be assessed for the costs of improvements, by certified mail at least fifteen (15) days prior to the date of the hearing. This notice shall contain:

(1) A description of the street improvement; and

(2) The cost of assessment for each affected parcel of property.

(e) *Objections to legality of assessment or other proceedings; filing; council action.* The property owners and any other persons directly interested in the street improvements or in the assessment who have any objection to the legality of the assessment or to any of the previous proceedings connected therewith or who claim that the work has not been performed according to the contract may, prior to the time fixed for the hearing, file in the office of the Town Clerk a written notice briefly specifying the grounds for objection. At the time fixed for the hearing, or at any time thereafter to which the hearing may be postponed, the Council shall hear and rule upon the objections. The decision of the Council shall be final and conclusive as to all errors, informalities and irregularities which the Council might have remedied or avoided at any time during the progress of the proceedings.

(f) Right to appeal. The determination of necessity by the Council resulting in the assessing of property under this section may be appealed by any aggrieved party to the Superior Court.

(g) *Unpaid assessments.* The Council's resolution shall provide that any assessments remaining unpaid shall be paid prior to or at the time of the development of the assessed property.

(h) *Recording of assessment; lien.* A resolution declaring the assessment and describing the properties against which the assessments are imposed shall be recorded in the office of the county recorder. When so recorded, the amount so assessed shall be a lien upon the properties assessed for ten (10) years thereafter, or until such assessments are paid, whichever first occurs, and such recording shall be notice to all persons interested in the contents of the record.

(i) *Abatement of assessment; conditions.* Any assessment made under this section shall abate if the property has not been developed within ten (10) years of the assessment.

Section 14-3-7 Right-of-way.

When it is necessary to improve a full street and sufficient right-of-way is not available, the Town Engineer may obtain the right-of-way upon terms that are just to the property owner and the Town. If the right-of-way is not dedicated at time of construction, the cost to the Town to purchase the right-of-way shall be considered an expense attributable to the street

improvements and shall be assessed against the property at the time of development.

Section 14-3-8 Collecting unpaid assessments at time of development.

At the time of development of the property adjacent and abutting such improvements, the Town Council shall fix, levy and assess the amount to be repaid upon such property and collect the amounts of such improvements as county taxes are collected. All statutes providing for the levy and collection of State and County taxes, including collection of delinquent taxes and sale of property for nonpayment of taxes, are applicable to the assessments provided for in this article.

CHAPTER 15 PARKS AND RECREATION

ARTICLE 15-1[1] RECREATION ADVISORY BOARD

ARTICLE 15-2[2] PUBLIC PARK REGULATIONS

15-2-1 Adoption by Reference
15-2-2 Enforcement and Penalty

Section 15-2-1 Adoption by Reference

The "Town of Queen Creek Public Park Regulations," three copies of which are on file in the Town Clerk's Office, is hereby adopted by reference as if set out at length in this code.

Section 15-2-2 Enforcement and Penalty

A. The Town Manager, or designee or any local law enforcement officer, is authorized to eject from any park, retention basin or wash any person who violates any provision of this chapter or who engages in any disorderly or disruptive behavior in a park, retention basin or wash.

B. The Town Manager, or designee, or any local law enforcement officer shall have the authority to seize and confiscate any property, thing or device in the park, retention basin or wash used in violation of this chapter.

C. After the Town Manager, or designee, or any local law enforcement agent requests that a person leave a park, retention basin, or wash, it is unlawful for such person to remain in the park, retention basin or wash or to return to the same park, retention basin or wash within twenty-four hours of the request to leave.

D. Any person convicted of a violation of any provision of this chapter shall be guilty of a class one misdemeanor and shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment not to exceed six months, or by both fine and imprisonment.

ARTICLE 15-3[3] PARKS, TRAILS AND OPEN SPACE COMMITTEE

[1]Added by Ordinance 103-07 and subsequently deleted in its entirety by Ordinance 446-09

[2]Ordinance 103-97

[3]Added by Ordinance 352-06 and subsequently deleted in its entirety by Ordinance 360-06

CHAPTER 16
UTILITIES

ARTICLE 16-1 (RESERVED)

ARTICLE 16-2 PROVISION OF UTILITY SERVICE

Section 16-2-1 Applicability of article

Section 16-2-2 Related Documents

Section 16-2-3 Definitions

Section 16-2-4 Regulations part of customer contract

Section 16-2-5 Responsibilities

Section 16-2-6 Utility Services Director

Section 16-2-7 Application for service

Section 16-2-8 Deposits

Section 16-2-9 Grounds for refusal of service

Section 16-2-10 Service lines, and water meters

Section 16-2-11 Easements and rights-of-way

Section 16-2-12 Customer responsibility

Section 16-2-13 Payment of bills

Section 16-2-14 Grounds for termination of service

Section 16-2-15 Nonpayment of delinquent bill, filing of lien, interest

Section 16-2-16 Reconnection of service

Section 16-2-17 Deposit required after termination

Section 16-2-18 Termination without notice

Section 16-2-19 Limitation of liability

Section 16-2-20 Right of entry; inspections

Section 16-2-21 System repair fees

Section 16-2-22 Sales taxes; business privilege taxes; in-lieu taxes

Section 16-2-23 Enforcement

Section 16-2-24 Liens

Section 16-2-1 Applicability of article

The intent and purpose of this chapter is to promote the health, safety, order and general welfare of the present and future utility customers of the town. This chapter governs the operation of utility services provided by the town. The provisions of this article shall be applicable generally to all utility services provided by the town. Where provisions of this article conflict with specific provisions of this chapter 16, such specific provisions shall apply.

Utility service shall mean potable water service, irrigation service, reclaimed water service, sewer service, effluent delivery and solid waste/recycling service provided by the town.

The services provided for under this chapter are limited to the town's equipment ability and capacity. The town may reject any application for utility service. Enforcement rights granted to the town under this chapter are cumulative and in addition to any other remedy available to the town at law or equity.

Section 16-2-2 Related Documents

The water master plan, wastewater master plan and the design and construction standards manual for water, wastewater and irrigation systems (collectively "utility system master plans") are incorporated into this chapter by reference and may be periodically reviewed and updated by the utility systems department director to comply with new regulations, requirements, and procedures. Such updates shall be presented to the town council and posted on the town's website at least 60 days prior to implementation, and additional notice of such updates shall be provided by publication in a newspaper of general circulation once each week for two consecutive weeks.

Section 16-2-3 Definitions

"Applicant" means a person requesting the town to provide utility service.

"Application" means a request to the town for utility services.

"Customer" means the person or entity in whose name service is rendered, as evidenced by the name on the application, the contract for service, or utility bills, regardless of the identity of the actual user of the utility service. Customer includes the customer's agent or contractor.

"Meter" means the instrument for measuring and indicating or recording the volume of water that has passed through it.

"Request for service" means the act of requesting or receiving utility service from the town which constitutes an agreement by the customer to comply with all the terms and conditions which are imposed by the town.

"Wastewater utility" means infrastructure used for the collection or treatment of wastewater.

"Water utility" means infrastructure used for the extraction, storage, or delivery of potable water or non-potable water but not for the delivery of wastewater or stormwater.

Section 16-2-4 Regulations part of customer contract

All regulations contained in this chapter shall be considered a part of the contract of every customer of the town taking utility service from the town, and such customer taking utility service shall be considered as having expressly consented to be bound thereby. By accepting utility service provided by the Town of Queen Creek Utility Services Department, the customer agrees to the regulations set forth in this document/ chapter/ article?

Section 16-2-5 Responsibilities

The town council may, by ordinance or resolution, set and amend any rate, rate component, charge, fee, penalty, surcharge or service charge. The town council may adopt comprehensive utility system master plans. Upon adoption of the plans, the council shall assure that no extension, improvement or addition to a town utility shall be constructed or authorized unless and until the extension, improvement or addition conforms to the corresponding utility system master plan. The town council may adopt and amend engineering design and construction standards for improvements to, extensions of, additions to, and modifications of the town's utilities.

A separate fund is established for the town's water utility and for the town's wastewater utility. All funds paid to the town pursuant to provisions of this chapter for, but not limited to, service charges, fees, construction of facilities, fines and penalties shall be deposited into the corresponding utility fund, and all expenditures made by the town in relation to the town's ownership, operation, maintenance, repair, expansion, acquisition, management, salaries, professional fees, debt service, bond payments and other costs and charges shall be paid from the corresponding utility fund. The town council may make loans from the general fund to the town utility funds from time to time to supplement revenues generated by the town utilities to assure the timely payment of all obligations, provided that the loans are timely repaid from the corresponding utility fund to the general fund. The town utilities shall be self-supporting and funded solely from revenues generated from utility operations.

Section 16-2-6 Utility Services Department Director

The town utilities director shall be responsible for the day-to-day management of the town utilities including, but not limited to:

A. Provision of safe and reliable service to town utility customers

B. Compliance with federal, state, and local ordinances and regulations

C. Preparation and periodic updating of utility system master plans, including but not limited to the water master plan, wastewater master plan and the design and construction standards manual for water, wastewater and irrigation systems

D. Sufficiency of the town's water utility supply

E. Adequacy of the town's wastewater utility capacity

F. Inspection and repair of the utility systems

G. Review of all engineering plans and contracts related to the town's utilities

H. Collection of all funds due the town's utilities

I. Development of utilities elements of the town's capital improvement plan

J. Preparation and administration of annual budgets

K. Enforcement of this chapter

Section 16-2-7 Application for service

Water and/or wastewater utility service may only be provided pursuant to application to the town. Before providing service, the town shall collect all installation and other charges required by this chapter and all customer information deemed appropriate by the utilities department.

Section 16-2-8 Deposits

The town may require a deposit from an applicant for service. A separate deposit may be required for each service connection. No interest shall be paid to customers on deposits. Deposit refunds shall be made to the individual whose name is on the account at the time of the refund. Upon the discontinuance of service, the deposit will be applied by the town toward settlement of the account.

Section 16-2-9 Grounds for refusal of service

The town may refuse to establish utility service if any of the following conditions exist:

A. The applicant has an outstanding amount due for utility service with the town, and the applicant does not bring current any outstanding bills.

B. A condition exists which in the town's judgment is unsafe or hazardous to the applicant, a resident of the town or the town's personnel or facilities.

C. Refusal by the applicant to provide the town with a deposit.

D. Failure of customer to furnish such funds, service, equipment or rights-of-way necessary to serve the customer and which has been specified by the town as a condition for providing utility service.

E. Applicant provides false information for the purpose of obtaining service.

Section 16-2-10 Service line and water meters

An applicant for utility service shall be responsible for the cost of installing all customer piping up to the water meter and/or discharge point for the sewer connection. The town will install its water meter at the property line or in the public right-of-way. Where the meter or service line location is changed at the request of the customer or due to alterations on the customer's premises, the customer shall provide and have installed at his expense all piping necessary for relocation of the meter, and the town may charge for moving the meter service line.

Section 16-2-11 Easements and rights-of-way

Each town utility customer shall grant adequate easements or rights-of-way satisfactory to the town to ensure that customer service connections are accessible by the town.

The customer's failure to grant adequate easements or rights-of-way shall be grounds for the town to refuse utility service.

When the town discovers that a customer is performing work or has constructed facilities adjacent to or within an easement or right-of-way and the work, construction or facility poses a hazard or is in violation of federal, state or town laws, ordinances, statutes, rules or regulations, or may interfere with the town's access to its utility facilities or equipment, the town shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at customer's expense.

Section 16-2-12 Customer responsibility

A. Each town utility customer shall be responsible for the following:

   a. Maintaining all facilities on the customer's side of the point of connection in a safe and efficient manner and in accordance with all applicable federal, state, and local rules and regulations. The point of connection is the meter for water service and is where the house sewer connects to the sewer collection system for sewer service.

   b. Safeguarding all town utility property installed in or on the customer's premises for the purpose of providing utility service to that customer.

   c. Exercising all reasonable care to prevent loss or damage to town utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to town utility property on the customer's premises arising from neglect, carelessness or misuse and shall reimburse the town for the cost of necessary repairs or replacements.

   d. Payment of any equipment damage resulting from unauthorized breaking of seals, tampering or bypassing the town water meter.

   e. Notifying the town of any town utility equipment failure.

   f. Paying all utility rates, charges and fees when due.

B. Special provisions relating to water service.

   a. Water furnished by the town shall be used only on the customer's premises and shall not be resold to any other person.

   b. During critical water conditions, as determined by the Town Council and/ or Utility Services Department Director, the customer shall use water only for those purposes specified by the Council and/ or Utility Services Department Director.

   c. Disregard for this provision shall be sufficient cause for refusal or discontinuance of water utility service by the town.

C. Special provisions relating to sewer service:

   a. Sewer service provided by the town shall be only for the benefit of the customer's premises and shall not be extended to any other property.

   b. Nothing shall be discharged into the sewer collection system which is prohibited by law, may lead to a sanitary sewerage overflow, or adversely affects the operation or maintenance of the collection system. This prohibition includes but is not limited to oil, grease, and flammable material.

   c. Disregard for this provision shall be sufficient cause for refusal or discontinuance of sewer and water service by the town.

d. Each customer shall provide the town and its employees and agents the right of safe ingress and egress to the customer's premises for any purpose reasonably related to the town's provision of utility service to the premises.

Section 16-2-13 Payment of bills

Utility rates, charges or fees are due and payable to the town upon billing. Any rate, charges or fees not paid in full by the next billing due date are subject to a late charge, in addition to the balance due, in an amount established by a fee schedule adopted by the town council and amended from time to time. Rates, fees, and/ or charges that are not paid in full by the 10th day following the original billing due date, may result in water service being discontinued/ disconnected.

Section 16-2-14 Grounds for termination of service

Utility service to a customer may be terminated by the town for any of the following reasons:

A. Customer violation of any of the provisions in this chapter;

B. Failure of the customer to meet or maintain the utility services department's credit and deposit requirements;

C. Failure of the customer to provide the town reasonable access to its utility equipment and property;

D. Failure of a customer to pay a delinquent bill for utility service.

Section 16-2-15 Nonpayment of delinquent bill; filing lien; interest

If any bill for a utility rate, charge or fee made to the customer pursuant to this chapter is not paid by the next billing date, the customer shall be given written and/ or electronic notice specifying that the bill is delinquent and outlining the procedure by which the customer may challenge the accuracy of the bill.

The town may file a lien on the property for unpaid fees that are at least 90 days delinquent. The town may enforce the lien by any method permitted by law. Unpaid fees shall accrue interest at the rate provided by A.R.S. § 44-1201.

Section 16-2-16 Reconnection of service

In no case shall any individual, other than the town water utility, turn on the water supply to any building or any supply pipe where the supply has been turned off for the nonpayment of the monthly water bill or for the violation of any provision of this chapter. All water that has been turned off by the town water utility shall only be turned on again by the employees or agents of the town water utility.

Section 16-2-17 Deposit required after termination

If utility service is terminated due to nonpayment of a delinquent bill, the town shall require payment in full of all amounts due and owing and payment of a utility deposit as a condition of reestablishing service.

Section 16-2-18 Termination without notice

Utility service may be terminated by the town without advance written notice under the following conditions:

A. Existence of a hazard to the safety or health of the customer, town personnel, or general population;

B. Evidence of water meter tampering or fraud;

C. Evidence of unauthorized resale of water or utility services;

D. A customer's failure to comply with the curtailment procedures imposed by the Town Council and/ or Utility Services Department Director during water supply shortages or restrictions.

Section 16-2-19 Limitation of liability

The town does not warrant nor guarantee its ability to provide continuous or uninterrupted utility service; nor does the town warrant or guarantee any particular level of utility service. If utility service is interrupted, disconnected, irregular or defective or fails from causes beyond the town's control or due to the negligence of its employees, servants or agents, the town shall not be liable for damages, claims or losses arising therefrom.

Section 16-2-20 Right of entry; inspections

The town shall have the right to enter commercial, institutional and industrial establishments and to enter upon residential property for inspection purposes related to the provision of utility service as required by this chapter or any other law, rule, regulation or order of an entity having jurisdiction thereover and for the enforcement of this chapter.

Provision shall be made for regular inspection of the town's facilities used in providing utility service and when required by this chapter or any other law, rule, regulation or order of an entity having jurisdiction thereover, for the inspection of premises receiving utility service for purposes related to the provision of utility service.

Section 16-2-21 System repair fees

Any customer, developer, contractor, or other person who damages, cuts, destroys, or causes the need for repair to the town's wastewater or water systems or any part thereof (i.e. mains, laterals, service connections, etc.) shall be held financially responsible for the cost of the repair. The town shall assess the responsible party for the cost of the repair in an amount in accordance with this Code.

Section 16-2-22 Sales taxes; business privilege taxes; in-lieu taxes

All applicable sales taxes, business privilege taxes and in-lieu-of-franchise taxes shall be added to utility user fees.

Section 16-2-23 Enforcement

A penalty charge may be added to any user fee payment that is delinquent. Interest ~~shall~~ may accrue on the sum of delinquent payments and penalty charges, compounded monthly.

Section 16-2-24 Liens

Delinquent utility service fees and charges shall constitute a lien against the property upon which such lien may be imposed. The Utility Services Director may file a lien on property for the nonpayment of utility services. Before filing the lien, the town shall provide written notice to the owner of the property. The notice shall be given at least 30 days before filing the lien and shall include an opportunity for a hearing with a designated town official. The notice shall either be personally served or mailed to the property owner, at the last known address by certified mail, or to the address to which the tax bill for the property was last mailed. If the owner does not resided on the property, the notice shall be sent to the last known address.

The unpaid utility service fees and charges, from the date of the date of recording in the office of the county recorder in the county in which the property is located, are a lien on the property until all fees and charges are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of property to satisfy a lien obtained under this article shall be made on judgment of foreclosure and order of sale. The town may bring an action to enforce the lien in the superior court in the county in which the property is located at any time after the recording, but failure to enforce the lien by this action does not affect its validity. The recorded unpaid utility service fees and charges are prima facie evidence of the truth of all matters recited in the recording and of the regularity of all proceedings before the recording.

Unpaid fees and charges pursuant to this article accrue interest at the rate prescribed by A.R.S. § 44-1201. The town shall be entitled to recover its reasonable attorney's fees and costs incurred in the foreclosure of any such lien.

A prior assessment of unpaid fees and charges for the purposes provided in this chapter does not bar a subsequent assessment for these purposes and any number of liens on the same lot or tract of land may be enforced in the same action.

ARTICLE 16-3 SANITARY SEWER REGULATIONS

16-3-1 Definitions

16-3-2 Digging Up Streets without a Permit

16-3-3 Private Wastewater Systems

16-3-4 Sanitary Sewers Outside Town

16-3-5 Sanitary Sewers: Design, Construction, and Inspection

16-3-6 Building Connections: Permits, Approval, Records, and Responsibility

16-3-7 Ownership of Public Sewer Lines and Other Equipment Maintained by the Utility Services Department

16-3-8 Sewer Service Fees

16-3-9 Mandatory Sewer Connections

16-3-10 Control Manholes

Section 16-3-1 Definitions

The words or phrases used herein shall have the meaning prescribed in the current Town code except as otherwise indicate herein:

"Branch sewer" means a sewer which receives wastewater from lateral sewers from a relatively small area.

"Building connection" means the connection to the public sewer and the extension there from the sewer to the property line in an alley or street or to the easement line in an easement, whichever is applicable, depending on the location of the public sewer.

"Building sewer" means the extension from the building drain to the building connection or other place of disposal.

"Cooling water" means the clean wastewater discharged from any heat transfer system.

"Discharge" means the disposal of wastewater into the TCS/POTW.

"Effluent" means wastewater that has been treated in a POTW.

"Lateral sewer" means a sewer which discharges into a branch or other sewer and has no common sewer tributary to it.

"Main sewer" means a sewer which receives wastewater from one or more branch sewers as tributaries.

"Maintenance" means keeping the TCS/POTW in a state of repair, including expenditures necessary to maintain the capacity for which such works were designed and constructed.

"Person" means any individual, partnership, co-partnership, firm , company, corporation, association, joint stock company, trust, state, municipality, Indian tribe, political subdivision of the state, federal governmental agency, or any other legal entity, including their legal representatives, agents or assigns.

"POTW" means a public 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 user" means any person, lot, parcel of land, building or premises that discharges or causes or permits the discharge of wastewater into the POTW.

"Public sewer" means a lateral, branch, main or trunk sewer controlled and maintained by the Town.

"Replacement" means those expenditures made for obtaining and installing equipment accessories, and /or appurtenances during the useful life of the TCS/POTW which are necessary to maintain the capacity and performance of the TCS/POTW for which they were designed and constructed.

"Sanitary sewer" means a sewer which carries wastewater and to which storm water, surface water and groundwater are not intently admitted.

"Sewer" means a pipe or conduit for carrying wastewater.

"Storm sewer" means a sewer which carries storm and surface waters and drainage, but does not include wastewater containing pollutants.

"TCS" means **Town Collection System (TCS).** All sanitary sewer lines owned and maintained by the Town.

"Town" means the Town of Queen Creek, Arizona.

"Utility Services Department" The department as established by the Town to provide utility service, including water, wastewater, irrigation, and reclaimed water.

"Utility Services Department Director" The person designated in, Section 16-5-2 this Chapter 16 to supervise the operation of the Utility Services Department, and who is charged with certain duties and responsibilities, or a duly authorized representative of the Director.

Section 16-3-2 Digging up Streets Without a Permit; Tampering with Equipment Prohibited

It shall be unlawful to:

A. Dig up or cause to be dug up any street or alley in the Town for the purpose of connecting to the TCS/POTW without first obtaining a permit from the Town Engineer;

B. Having a permit, dig up any portion of any street or alley of the Town for the purpose of connecting to the TCS and fail or neglect to place the street or alley in its original condition; or

C. Maliciously or willfully break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the TCS.

Section 16-3-3 Private Wastewater Systems

A. Except as provided in this Article, it shall be unlawful to construct or maintain within the Town any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

B. Where a public sanitary sewer is not available within the Town or in any area under the jurisdiction of the Town, the building sewer shall be connected to a private wastewater disposal system, complying with the provisions and recommendations of the Arizona Department of Environmental Quality and the Sanitary Code of Maricopa County. Such private wastewater disposal system shall be constructed, maintained, and operated at all times in a sanitary manner.

Section 16-3-4 Sanitary Sewers Outside Town

Any TCS/POTW user located outside of the Town limits who discharges wastewater into a sanitary sewer owned or operated by the Town shall be bound by the requirements of this Article.

Section 16-3-5 Sanitary Sewers; Design, Construction, and Inspection

A. The Town shall have the authority to approve the design, issue permits and conduct inspections of sewer facilities that are to be connected to the Town's sanitary sewer system.

B. The design and construction of all sanitary sewers under the jurisdiction of the Town must conform to the standard sewer design and construction specifications as identified in the Maricopa Association of Governments Specifications, the Arizona Department of Environmental Quality Bulletin No. 11 and the Town's standards.

C. All sewers to be attached directly to the TCS/POTW shall be inspected by personnel of the Town during construction. The Town shall be notified at least forty-eight (48) hours prior to cutting into the TCS/POTW prior to obtaining Town approval of sewer construction.

Section 16-3-6 Building Connections; Permits, Approval, Records, and Responsibility

A. No authorized person shall 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 Utility Services Department.

B. Each person making application for a building connection shall obtain a valid plumbing permit from the Town as a prerequisite for the approval of the required building connection. All applications for building connections shall be accompanied by the current fees for such work.

C. The number, location, manner of connection and size of all building connections shall be subject to the approval of the Utility Services Department Director or designee and the Utility Services Department Engineering Manager.

D. The Town shall keep a record of all building sewer connections made and the purpose for which they are to be used, together with the name of the owner of the property, the owner's agent or a representative.

E. The property owner shall be responsible for the cleaning, unstopping, maintenance, and repair of the building connection piping serving the property from the owner's home or building to the public sewer.

F. Where the correction of a stoppage requires the repair or replacement of a damaged or broken section of the building connection and the damaged or broken section is located off-property in a street or alley, the property owner shall have the damaged or broken section repaired by a licensed contractor who shall obtain all permits required by the Town.

Section 16-3-7 Ownership of Public Sewer Lines and Other Equipment Maintained by the Utility Services Department

The ownership of all public sewer lines, pumping stations, treatment facilities, and equipment and other appurtenances to the sewer system maintained or accepted for maintenance by the Utility Services Department shall be vested in the Town and in no case shall the owner of any premises have the right to claim any part except where otherwise provided in the code.

Section 16-3-8 Sewer Service Fees

A. The Council may, by ordinance or resolution, set and amend any rate, rate component, fee or service charge to be made for sewer service.

B. Sewer service fees shall be apportioned to include a user charge relating to the volume of effluent contributed by each user, a collection system maintenance and operation charge that includes all costs associated with maintenance of the collection system, customer billing and administration, and a capital reserve charge relating to the volume of effluent contributed. Sewer service fees shall be allocated in such a manner that is proportionate to the cost of providing wastewater service to each user or user class insofar as those costs can reasonably be determined.

C. The average winter water use or the volume portion of the sewer service fee shall be determined for residential users from the average monthly water use during the winter billing cycles of December, January,
and February. For other users the monthly volume shall be used.

D. If a user can demonstrate that the volume portion of their service fee is significantly in error, they can appeal to the Utility Services department Director or designee for an adjustment of their sewer service fee. The decision of the Utility Services department Director or designee shall be final.

E. The following sewer user classes are established:

CLASS

R1 Residential I – With an individual water meter such as single family detached.

R2 Residential II – Other, with landscaping on a separate meter, such as condominiums.

R3 Residential III – New customers prior to establishing the AWWU.

C1 Commercial and Industrial I – Landscaping on separate meters and no pretreatment; includes office buildings, apartments, retails, restaurants, schools, employment, etc.

C2 Commercial and Industrial II – Landscaping on the same meter and no pretreatment; includes Queen Creek Middle School, Canyon State Academy, and some Town Center office conversions.

C3 Commercial and Industrial III – C1 with pretreatment.

B1 Builder – Between issuance of building permit and certificate of occupancy.

F. In addition to the sewer service charges listed in (B) and (E), the Council may set other sewer service classes, fees, or charges as desired.

Section 16-3-9 Mandatory Sewer Connections

A. Property currently served by a septic tank system and located within the Town's sanitary sewer service area shall within six months from the date a public sewer becomes available to the property, connect to the public sewer in accordance with provisions of this section and the Town's building code. For purposes of this section, a public sewer is available to a property when the Town installs or causes to be installed lateral lines from the public sewer to the property line. It is the Town's responsibility to notify property owners when sewer service becomes available.

B. All new development within the Town's sanitary sewer service area shall be required to connect to a public sewer system. When an existing sewer line is not adjacent to a proposed new development, it shall be the property owner's responsibility to extend the system in accordance with the Town's sewer master plan to serve their development.

C. All property owners within the Town's sanitary sewer area shall, within six (6) months of the adoption of this ordinance begin paying the sewer service fees provided in Section 6-4-10.

Section 16-3-10 Control Manholes

When required by the Utility Services Department Director, the owner of any property served by a building sewer carrying any liquid or free-flowing wastewater, excluding uncontaminated water but including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without sanitary sewer, shall install a suitable control manhole in the building sewer to facilitate observation, measurement and sampling of the wastes. Such manhole shall be accessible, safely located and constructed in accordance with plans approved by the Utility Services Department Director. The manhole shall be installed by the owner at the owner's expense.

ARTICLE 16-4 WASTEWATER DISCHARGE REGULATIONS

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Section 16-4-1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Town of Queen Creek (Town) Collection System and Publicly Owned Treatment Works and enables the Town to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations [CFR] Part 403). The objectives of this ordinance are:

A. To prevent the introduction of Pollutants into the Town Collection System and Publicly Owned Treatment Works that will interfere with their operation;

B. To prevent the introduction of Pollutants into the Town Collection System and Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into the receiving waters or aquifer, or otherwise be incompatible with the Publicly Owned Treatment Works;

C. To protect Publicly Owned Treatment Works Personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

D. To promote reuse and recycling of Industrial Wastewater and sludge from the Publicly Owned Treatment Works;

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Town Collection System and Publicly Owned Treatment Works;

F. To enable the Town to comply with the applicable Aquifer Protection Permit and Arizona Pollutant Discharge Elimination System conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject; and

G. To prevent the introduction of Pollutants into the Town Collection System and Publicly Owned Treatment Works in amounts that could cause or contribute to a sanitary sewer overflow.

This ordinance shall apply to all Users of the Town Collection System and Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Section 16-4-2 Administration

Except as otherwise provided herein, the Utility Services Department Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Utility Services Department Director may be delegated by the Utility Services Department Director to other Town Personnel.

Section 16-4-3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

°C	degrees Celsius
°F	degrees Fahrenheit
AAC	Arizona Administrative Code
ADEQ	Arizona Department of Environmental Quality
APP	Aquifer Protection Permit
A.R.S.	Arizona Revised Statutes
AZPDES	Arizona Pollution Elimination Discharge System
BMP	Best Management Practice
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
cm	centimeter
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
EPA	United States Environmental Protection Agency
gpd	gallons per day
IU	Industrial User
LUST	Leaking Underground Storage Tanks
mg/l	milligrams per liter
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works

RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
TCS	Town Collection System
TRC	Technical Review Criteria
TSS	Total Suspended Solids
U.S.C.	United States Code

Section 16-4-4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

"Act or "the Act" The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

"Approval Authority" Arizona Department of Environmental Quality (ADEQ).

"APP" Aquifer Protection Permit (APP) issued by ADEQ which imposes State standards governing the quality of effluent discharged either directly to an aquifer or to a land surface that will reach an aquifer.

"**Authorized Representative of the User"**
(1) If the User is a corporation:

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

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

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

"AZPDES Permit" Arizona Pollutant Discharge Elimination System Permit (AZPDES) issued by ADEQ which imposes State standards governing the quality of the effluent discharged from the Publicly Owned Treatment Works (POTW).

"Best Management Practices" (BMPs) Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 16-4-6 A and B [40 CFR 403.5(a) (1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established Categorical Pretreatment Standards and effluent limits.]

"Biochemical Oxygen Demand" (BOD) The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Centigrade (°C), usually expressed as a concentration (e.g., milligrams per liter [mg/l]).

"Bypass" The intentional diversion of wastewater from any portion of a pretreatment process.

"Categorical Industrial User" (CIU) An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

"Categorical Pretreatment Standard" or "Categorical Standard" Any regulation containing Pollutant discharge limits promulgated by U.S. Environmental Protection Agency (EPA) in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471 and are incorporated in this chapter by reference.

"Code of Federal Regulations" (CFR) Compilation of federal regulations promulgated under the CWA and incorporated herein by reference.

"Chemical Oxygen Demand" (COD) The quantity of oxygen consumed from a chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in milligrams per liter.

"Composite Sample" A combination of individual samples obtained at regular intervals over a specified 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.

"Control Authority" The Town.

"Clean Water Act" (CWA) The Federal Water Pollution Control Act, as amended, 33 U.S.C §§1251 et seq., incorporated herein by reference.

"Daily Maximum" The arithmetic average of all effluent samples for a Pollutant collected during a calendar day.

"Daily Maximum Limits" The maximum allowable discharge limit of a Pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily Discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily Discharge is the arithmetic average measurement of the Pollutant concentration derived from all measurements taken that day.

"Domestic wastewater" Any wastewater derived from the ordinary living processes in a residential dwelling unit of such character as to permit satisfactory disposal, without special treatment, by conventional POTW processes.

"Effluent" Wastewater that has been treated in a POTW.

"Environmental Protection Agency" (EPA) The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

"Existing Source" Any source of Discharge that is not a New Source.

"Food Service Facility" Any facility that processes, prepares, and/or serves food, including but not limited to industrial and commercial establishments, such as delicatessens, bakeries, and restaurants, and private and public institutions, such as schools, hospitals, churches, day-care and residential facilities with common food preparation and dining areas, but excluding private dwellings.

"Grab Sample" A sample which is taken from a waste stream without regard to the flow or time of day in the waste stream and over a period of time not to exceed fifteen (15) minutes.

"Indirect Discharge" or "Discharge" The introduction of Pollutants into the TCS and POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

"Industrial Waste" Any liquid, free-flowing waste, 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.

"Industrial Wastewater Discharge Permit" A written authorization issued by the Utility Services Department Director categorized as either Class I or Class II allowing a Class I or Class II industrial user to discharge wastewater into the TCS.

"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 Water Sewers and sanitary sewers, catch basins, cooling towers, Storm Waters, surface runoff, street wash waters or drainage.

"Instantaneous Limits" The maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Interference" A Discharge, which alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the applicable APP and AZPDES permits or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; and the Toxic Substances Control Act.

"Local Limit" Specific discharge limits developed and enforced by the Town upon non-residential facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a) (1) and (b).

"Maintenance" Keeping the Town Collection System (TCS) and POTW in a state of repair, including expenditures necessary to maintain the capacity for which such works were designed and constructed.

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

"Monthly Average" The sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

"Monthly Average Limit" The highest allowable average of daily Discharges over a calendar month, calculated as the sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

"New Source"
(1) Any building, structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to

which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

"Noncontact Cooling Water" Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

"Parameter" A fundamental characteristic of wastewater around which treatment is designed, such as flow, BOD, TSS, and phosphorus.

"Pass Through" A Discharge which exits the POTW 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 applicable APP or AZPDES permit, including an increase in the magnitude or duration of a violation.

"Permittee" Any person who owns, operates, processes or controls an establishment or plant being operated under a valid Industrial Wastewater Discharge Permit to discharge wastewater into the TCS and POTW.

"Person" Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, Indian tribe, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

"pH" A measure of the acidity or alkalinity of a solution, expressed in standard units; the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter or solution.

"Pollutant" Dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, biosolids, munitions, Medical Wastes, chemical wastes, biological materials,

radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and Industrial Wastes, and certain characteristics of wastewater (e.g., fats, oils, grease, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

"Pretreatment" The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to, or in lieu of, introducing such Pollutants into the TCS and POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the Pollutants unless allowed by an applicable Pretreatment standard.

"Pretreatment Requirements" Any substantive or procedural requirement related to Pretreatment imposed on a User, other than a Pretreatment standard.

"Pretreatment Standards or Standards" Pretreatment Standards shall mean Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.

"Process Wastewater" Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

"Prohibited Discharge Standards" or "Prohibited Discharges" Absolute prohibitions against the Discharge of certain substances; these prohibitions appear in Section 16-4-6 of this ordinance.

"Publicly Owned Treatment Works" (POTW) A treatment works as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned in part by the Town and provide the Town with wastewater collection and disposal services. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastes of a liquid nature, recharge/reuse systems and facilities, and any conveyances which convey wastewater to a Treatment Plant.

"Ready Access" The ability of the Utility Services Department Directorto enter and approach sampling and monitoring locations such that equipment can be safely and easily delivered by truck, installed, operated, maintained, and inspected.

"Representative Sample" A Composite Sample obtained by flow proportional sampling techniques except where another sampling method is specified by the User's wastewater discharge permit or authorized by the Utility Services Department Director.

"Sanitary Sewer" A sewer which carries wastewater and to which storm water, surface water and groundwater are not intentionally admitted.

"Septic Tank Waste" Any Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

"Sewage" Human excrement and gray water (household showers, dishwashing operations, etc.). Any and all waste substances, liquids or solids associated with human habitation, but excluding storm, surface and ground water, and Industrial Waste.

"Significant Industrial User" (SIU) Defined as Industrial User that meets the following criteria:

(1) An Industrial User subject to Categorical Pretreatment Standards; or

(2) An Industrial User that:

(a) Discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process wastewater to the TCS and POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

(b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW's Treatment Plant; or

(c) Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement.

(3) The Town may determine that an Industrial User subject to Categorical Pretreatment Standards is a non-significant Categorical Industrial User (CIU) rather than a SIU on a finding that the Industrial User never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to Town's finding, has consistently complied with all applicable Categorical Pretreatment Standards and requirements; and

(b) [Reserved]

(c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f) (6), determine that such User should not be considered a SIU.

"Slug Load or Slug Discharge" Any Discharge at a flow rate or concentration, which could cause a violation of the Prohibited Discharge Standards in Section 16-4-6 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions. In particular, any pollutant concentration, quantity, or flow rate which, during any period of fifteen minutes or more, is greater than five times the average twenty-four hour concentration, quantity, or flow rate for such pollutant during normal operations.

"Standard Industrial Classification (SIC) Code" A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

"Storm Water Sewer" A sewer which carries storm and surface waters and drainage but excludes Sewage and polluted Industrial Wastes.

"Storm Water" Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation.

"Total Suspended Solids" (TSS) or "Suspended Solids" The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

"Town" The Town of Queen Creek, Arizona.

"Town Collection System" (TCS) All sanitary sewer lines owned and maintained by the Town.

"Upset" An exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"User" or "Industrial User" A source of Indirect Discharge.

"User Charge" A portion of the sewer fee levied by the Town which shall be sufficient to fund the estimated annual operation and maintenance (during replacement) cost of the TCS and POTW.

"User Class" Any grouping as determined by the Utility Services Department Director of TCS and POTW users, including Class I, II, and III industrial users.

"Utility Services Department Director" The person designated by the Town, Section 16-2-2 of the Town Code, to supervise the operation of the Pretreatment Program, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

"Utility Services Department" The department established by the Town to provide utility service, including water, waste water, irrigation and reclaimed water.

"Vehicle Service Facility" Any facility, excluding residential homes, that conducts one or more of the following operations with respect to vehicles or components of vehicles: vehicle repair, fuel dispensing, vehicle fluid replacement, engine and parts cleaning, body repair, vehicle salvage and wrecking, or vehicle washing.

"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 such waste into the TCS and POTW.

"Wastewater" Liquid and water-carried industrial waste and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are conveyed to the TCS and POTW.

"Wastewater Treatment Plant" or "Treatment Plant" That portion of the POTW which is designed to provide treatment of municipal Sewage and Industrial Waste.

Section 16-4-5 Industrial Users Identified as Class I, II, or III

The following sewer user classes have been established for Commercial and Industrial Users:

A. Class I Industrial users are defined as Significant Industrial Users (SIUs)

B. Class II Industrial users shall be any industrial user that meets all of the following criteria:

a. Is not an SIU;

b. Is determined in writing by the Utility Services Department Director to be responsible for an industrial discharge which causes or has the reasonable potential to cause harm or damage to the TCS or POTW, worker safety, public safety, or the environment; and

c. Has discharges which are any one or more of the following:

i. Greater than the equivalent strength of twenty-five thousand (25,000) gpd of domestic waste measured by BOD and TSS.

ii. Pollutants in groundwater subject to a remedial action plan that has been approved by an appropriate regulatory agency.

iii. Any of the substances described in Section 16-4-6 of this ordinance.

iv. Either domestic wastewater or no discharge at all, but such industrial user does have significant quantities of pollutants which, if discharged, would be regulated by this ordinance.

d. All Commercial Industrial Users that are not Class I or II under subsections A and B of this Section shall be identified as Class III Industrial Users.

Section 16-4-6 Prohibited Discharge Standards

A. General Prohibitions

No User shall introduce or cause to be introduced into the TCS and POTW any Pollutant or wastewater which causes Pass Through or Interference, or any water or waste that could cause a violation of any Categorical Standard or Pretreatment or recharge requirement. These general prohibitions apply to all Users of the TCS and POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or requirements.

B. Specific Prohibitions

Except as provided in this Section, no Person or User shall discharge, cause to be discharged, or process or store in such a manner that they could be discharged, any of the following described water or wastes to the TCS or POTW:

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases which, by reason of their nature or quantity could be sufficient, either alone or by interaction with other substances, to cause injury to the TCS and POTW from fire or explosion.

2. Pollutants which create a fire or explosive hazard in the TCS and POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (°F) (60 °C) using the test methods specified in 40 CFR 261.21.

3. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the TCS and POTW, or at any point in the TCS and POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

4. Any water or waste having a pH lower than five (5.0) standard units (SU) or greater than ten and one-half (10.5) SU or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel to the TCS and POTW.

5. Wastewater having a temperature greater than 150 °F (65.6 °C), or which will inhibit biological activity in the TCS and POTW resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the TCS and POTW to exceed 104 °F (40 °C).

6. Fats, oils, or greases of animal or vegetable origin in amounts that will cause or contribute to obstruction of the flow in the TCS and POTW.

7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts which will cause or contribute to obstruction of the flow in the TCS and POTW, Interference, Pass Through, or damage to the TCS and POTW.

8. Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW.

9. Solid or viscous substances in amounts which will cause or contribute to obstruction of the flow in the TCS and POTW, but in no case solids greater than one-half inch (1/2") or 1.27 centimeters (cm) in any dimension.

10. Any water or waste containing a toxic, poisonous, radioactive or other substance in sufficient quantities to cause, or have the potential to cause, injury or interfere with any wastewater treatment process, cause effluent of the POTW to come out of ADEQ compliance, cause corrosive structural damage or equipment degradation constitute a hazard to humans or animals or create any hazard to the TCS and POTW system or in the receiving waters and aquifer, or Pollutants which result in the presence of toxic gasses, vapors or fumes within the TCS and POTW system in a quantity that may cause acute worker health and/or safety problems.

11. Any Pollutant in concentrations that pose a risk of fume toxicity or other health and safety risks to TCS and POTW workers. The Town reserves the right to establish, by ordinance or in wastewater discharge permits, specific instantaneous effluent limitations for these Pollutants.

12. Any noxious or malodorous liquids, gas or substance which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life, or prevent entry into the TCS for maintenance and repair.

13. Trucked or hauled Pollutants, except at discharge points designated by the Utility Services Department Director in accordance with Section 16-4-15 of this ordinance, including any water or waste that is transported from the point of generation to the TCS and POTW by any septic tank pumper or chemical Waste Hauler, or similarly transported unless the transporter has first:

    a. Disclosed to the Utility Services Department Director the origin, nature, concentration and volume of all Pollutants to be discharged; and

    b. Obtained written consent of the Utility Services Department Director to discharge.

14. Storm Water, surface water, ground water, roof runoff, subsurface drainage, single-pass cooling water or condensate that may constitute inflow to any sanitary sewer. No rain spout, roof drain or other form of surface drainage and no foundation drainage or sump pump shall be connected to, or discharge into, any sanitary sewer. Storm Water and all other unpolluted drainage shall be discharged to such sewers or drains as are specifically designated by the Utility Services Department Director.

15. Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes.

16. Medical Wastes, except as specifically authorized by the Utility Services Department Director in a wastewater discharge permit.

17. Wastewater causing, alone or in conjunction with other sources, the POTW effluent to fail a toxicity test.

18. Detergents, surface-active agents, or other substances which may cause excessive foaming in the TCS and POTW.

19. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the POTW effluent, thereby violating the AZPDES permit.

20. Wastewater that has been diluted in any way as a substitute for pretreatment for the purpose of obtaining compliance with any categorical standard or pretreatment requirement imposed by this Article except where dilution is expressly authorized by any categorical standard.

21. A discharge, other than domestic wastewater, that exhibits a characteristic of a hazardous waste or contains a substance that is listed as a hazardous waste pursuant to either the Arizona Administrative Code (AAC) R18-8-261 or 40 CFR Part 261, whichever is applicable, whether or not the discharge is otherwise subject to hazardous waste regulations. The Utility Services Department Director may allow a discharge of such wastes, if upon written request of the affected person; the Utility Services Department Director determines that the discharge would not cause Interference or Pass Through with POTW operations.

22. Waste water sampled using the following specified sample type which exceeds the limits for the following parameters, expressed in the total form as micrograms per liter (ug/L):

    a) The instantaneous effluent limitation shall be the maximum allowable concentration permitted in a discharge at any time as measured in a grab sample. The instantaneous effluent limitation for the following parameters shall be:

Parameter	Limit (ug/L)	Sample Type

i.	Benzene	35	Grab
ii.	Chloroform	2,000	Grab

b) The following parameters are prohibited from being discharged to the TCS and POTW:

i. BHC-alpha
ii. BHC-beta
iii. BHC-gamma (lindane)
iv. Chrysene
v. Heptachlor
vi. Heptachlor Epoxide
vii. Phenanthrene
viii. Polychlorinated Biphenyl Compounds (PBCs)

Section 16-4-7 National Categorical Pretreatment Standards

The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in wastewater, the Utility Services Department Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

B. When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutant per unit of production, the Utility Services Department Director may convert the limits to equivalent limitations expressed either as mass of Pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

C. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Utility Services Department Director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

D. [Reserved]

E. [Reserved]

Section 16-4-8 State Pretreatment Standards

State Pretreatment Standards located at Arizona Administrative Code R18-9-A905 (A) (8) (b) are hereby incorporated.

Section 16-4-9 Local Limits

A. The Utility Services Department Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

B. Class I Industrial Users shall not discharge or cause to be discharged at any entry point into the TCS any wastewater which exceeds the daily average effluent limitation specified in part (3) below. A Class II Industrial User also may be subject to one or more of the daily average effluent limitations if the Utility Services Department Director determines in writing that such user is responsible for an industrial discharge which causes or has the reasonable potential to cause harm or damage to worker safety, public safety or the environment. This written determination shall identify the daily average effluent limitations applicable to the user that are necessary to minimize the potential harm or damage to worker safety, public safety and the environment.

1. The daily average effluent limitation shall be the maximum allowable concentration permitted in a discharge as measured, where feasible, in a composite sample obtained by flow proportional sampling techniques. If the Utility Services Department Director determines that flow-proportional site sampling is not feasible, the Utility Services Department Director may allow or conduct composite sampling by time-proportional techniques or by the compositing or averaging of one or more grab samples.

2. Sampling for the daily average effluent limitation shall be conducted using the sample type specified in part (3) below.

3. The daily average effluent limitation for the following parameters, expressed in the total form as milligrams per liter (mg/L), shall be:

Parameter		Limit (mg/L)	Sample Type
a.	Arsenic	0.1	Composite
b.	Cadmium	0.047	Composite
c.	Copper	1.5	Composite
d.	Cyanide	2.0	Grab
e.	Lead	0.41	Composite
f.	Mercury	0.0023	Composite
g.	Selenium	0.024	Composite
h.	Silver	1.2	Composite
i.	Zinc	3.5	Composite

C. The above limits apply at the point where the wastewater is discharged to the TCS and POTW. The Utility Services Department Director may impose mass limitations in addition to the concentration-based limitations above. The Utility Services Department Director may develop Best Management practices (BMPs), by ordinance or in individual wastewater discharge permits to implement Local Limits and the requirements of Section 16-4-6.

Section 16-4-10 Town's Right of Revision

The Town reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or requirements on Discharges to the TCS and POTW consistent with the purpose of this ordinance.

Section 16-4-11 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or requirement. The Utility Services Department Director may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or requirements or in other cases when the imposition of mass limitations is appropriate.

Section 16-4-12 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and achieve compliance with all Categorical Pretreatment Standards, local Limits, and prohibitions outlined in Section 16-4-6 of this ordinance within the time limitations specified by EPA, ADEQ, or the Utility Services Department Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense.

Plans, specifications and any other pertinent information relating to proposed Pretreatment facilities shall be submitted for review by and the approval of the Utility Services Department Director as well as the engineering division of the State and County Boards of Health. No such construction of such facilities shall be commenced until such approvals are obtained in writing. 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 Utility Services Department Director. The approval of the plans and inspection of construction shall not relieve the owner from complying with, and achieving, discharge limitations set forth in this chapter. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a Discharge acceptable to the Town under the provisions of this ordinance.

Federal Pretreatment regulations shall be enforced as applicable. No Discharge may cause the POTW to exceed the applicable APP or AZPDES limitations.

Section 16-4-13 Additional Pretreatment Measures

A. The Utility Services Department Director may require Users to restrict their Discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate Sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the TCS and POTW and determine the User's compliance with the requirements of this ordinance.

B. The Utility Services Department Director may require any Person discharging into the TCS and POTW to install and maintain, on their property and at their expense, a suitable

storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Pretreatment devices for the removal of fats, oils, and grease and sand, grit, and/or other solids shall be installed by Food Service Facilities and Vehicle Service Facilities. They shall also be installed by other Users when, in the opinion of the Utility Services Department Director, they are necessary for the proper handling of wastewater containing excessive amounts of these materials except that such interceptors shall not be required for residential Users. Requirements for the proper handling of these constituents in wastewater are as follows:

1. Grease interceptors shall be required, installed, and maintained as specified in the Utility Services Department Director policies and procedures for the sizing and cleaning of interceptors for the food service industry.

2. Sand/oil interceptors and oil/water separators shall be required, installed, and maintained as specified in the Utility Services Department Director' policies and procedures for the sizing and cleaning of interceptors for the vehicle service industry.

3. All interceptors and separators shall be of a type and capacity approved by the Utility Services Department Director or designee as defined by the Utility Services Department Design and Specifications Manual; located as to be readily and easily accessible for cleaning and inspection; constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature; and provided with traffic-rated vaults and lids. They shall be of a substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

4. Where installed, all interceptors and separators shall be maintained by the owner, at his expense, in continuous, efficient operation at all times. Interceptors and separators shall be inspected, cleaned and repaired regularly by the User at the

   User's expense as specified in the Utility Services Department Director' policies and procedures. The User shall have grease removed and disposed by grease haulers that are approved by the Utility Services Department Director. The User shall keep records of all cleaning, repair and maintenance for at least three (3) years on the site where the interceptor, separator or trap is located. These records shall include copies of manifests indicating the point of discharge for each load. Such records shall be available for inspection by the Utility Services Department Director upon request.

5. The Utility Services Department Director may require, in addition to the installation of Pretreatment devices, other actions by Users as necessary to implement the Town's program to manage fats, oil, and grease, including but not limited to adoption and implementation of BMPs.

D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Section 16-4-14 Accidental Discharge/Slug Discharge Control Plans

The Utility Services Department Director shall evaluate whether each SIU needs an accidental Discharge/Slug Discharge control plan. The Utility Services Department Director may require any User to develop, submit for approval, and implement such a plan. Alternatively, the

Utility Services Department Director may develop such a plan for any User. An accidental Discharge/Slug Discharge control plan shall address, at a minimum, the following:

A. Description of discharge practices, including non-routine batch Discharges;
B. Description of stored chemicals;
C. Procedures for immediately notifying the Utility Services Department Director of any accidental or Slug Discharge, as required by Section 16-4-37 of this ordinance; and

D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents, and/or measures and equipment for emergency response.

Section 16-4-15 Hauled Wastewater

A. The Utility Services Department Director shall require haulers of Septic Tank Waste to obtain wastewater discharge permits.

B. Septic Tank Waste haulers may discharge loads only at locations designated by the Utility Services Department Director and at such times as are established by the Utility Services Department Director. The Utility Services Department Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Utility Services Department Director may require the Septic Tank Waste hauler to provide a waste analysis of any load prior to discharge. The Discharge of hauled Septic Tank Waste is subject to all other requirements of this ordinance.

C. Septic Tank Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the Septic Tank Waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. Septic Tank Waste haulers shall maintain records of all waste-tracking forms for at least three (3) years.

D. The Utility Services Department Director shall require grease haulers to obtain wastewater discharge permits.

E. Grease haulers shall not discharge mixed loads of grease and septic tank waste or any other type of waste. Grease haulers may discharge loads only at locations designated by the Utility Services Department Director and at such times as are established by the Utility Services Department Director. The Utility Services Department Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Utility Services Department Director may require the grease hauler to provide a waste analysis of any load prior to discharge. The Discharge of hauled grease is subject to all other requirements of this ordinance.

F. Grease haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the grease hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. Grease haulers shall maintain records of all waste-tracking forms for at least three (3) years.

G. The Utility Services Department Director shall require haulers of Industrial Waste to obtain wastewater discharge permits. The Utility Services Department Director may require generators of hauled Industrial Waste to obtain wastewater discharge permits. The Utility Services Department Director also may prohibit the disposal of hauled Industrial Waste. The Discharge of hauled Industrial Waste is subject to all other requirements of this ordinance.

H. Industrial Waste haulers may discharge loads only at locations designated by the Utility Services Department Director and at such times as established by the Utility Services Department Director. No load may be discharged without prior consent of the Utility Services Department Director. The Utility Services Department Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Utility Services Department Director may require the Industrial Waste hauler to provide a waste analysis of any load prior to discharge.

I. Industrial Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the Industrial Waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. Industrial Waste haulers shall maintain records of all waste-tracking forms for at least three (3) years.

Section 16-4-16 Wastewater Analysis

When requested by the Utility Services Department Director, a User must submit information on the nature and characteristics of its wastewater within forty-five (45) days of the request. The Director of Utilities Services is authorized to prepare a form for this purpose and may periodically require Users to update this information.

Section 16-4-17 Wastewater Discharge Permit Requirement

A. No SIU shall discharge wastewater into the TCS and POTW without first obtaining a wastewater discharge permit from the Utility Services Department Director, except that a SIU that has filed a timely application pursuant to Section 16-4-20 of this ordinance may continue to discharge for the time period specified therein.

B. The Utility Services Department Director may require Vehicle Service Facilities and Food Service Facilities to obtain individual wastewater discharge permits. The Utility Services Department Director may also elect to issue a general permit which applies to all individual Users in a particular category (e.g., Vehicle Service Facilities). Vehicle Service Facilities and Food Service Facilities shall also meet the Pretreatment Requirements of Section 16-4-14C.

C. The Utility Services Department Director may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance. The Utility Services Department Director may also elect to issue a general permit or set general requirements, including implementation of Pretreatment and BMPs,

which apply to all individual Users in a particular category. For the purposes of this ordinance, Users in a category:

1. Involve the same or substantially similar types of operations;

2. Discharge the same types of wastes;

3. Require the same effluent limitations;

4. Require the same or similar monitoring; and

5. In the opinion of the Director of Utilities Services, are more appropriately controlled under a general permit or general requirements than under individual wastewater discharge permits.

D. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 16-4-50 through 16-4-60 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or requirements or with any other requirements of Federal, State, and local law.

Section 16-4-18 Wastewater Discharge Permitting: Existing Connections

Any User required to obtain a wastewater discharge permit who was discharging wastewater into the TCS and POTW prior to the effective date of this ordinance and who wishes to continue such Discharges in the future, shall, within thirty (30) days after the effective date of this ordinance, apply to the Utility Services Department Director for a wastewater discharge permit in accordance with Section 16-4-20 of this ordinance, and shall not cause or allow Discharges to the TCS and POTW to continue after thirty (30) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Utility Services Department Director.

Section 16-4-19 Wastewater Discharge Permitting: New Connections

Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the TCS and POTW must obtain such permit prior to the beginning or recommencing of such Discharge. An application for this wastewater discharge permit, in accordance with Section 16-4-20 of this ordinance, must be filed at least thirty (30) days prior to the date upon which any Discharge will begin or recommence.

Section 16-4-20 Wastewater Discharge Permit Application Contents

A. All Users required to obtain a wastewater discharge permit must submit a permit application. The Utility Services Department Director may require all Users to submit either independently or as part of an application the following information:

1. Identifying Information:

a. The name and address of the facility, including the name of the operator and owner; and

b. Contact information, description of activities, facilities, and plant production processes on the premises.

2. Environmental Permits. A list of any environmental control permits held by or for the facility;

3. Description of Operations;

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate oof production), and Standard Industrial Classification (SIC) of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the TCS and POTW from the regulated processes.

b. Typres of wastes generated, and a list of all raw materials and checmicals uised or stored at the facility which are, or could accidentally or intentionally be discharged to the TCS and POTW;

c. Number and type of employees, hours of operation, and proposed or actual hours of operation;

d. Type and amount of raw materials processed (average and maximum per day); and

e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

4. Time and duration of Discharges;

5. The location for monitoring all wastes covered by the permit;

6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the TCS and POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Section 16-4-7C (40 CFR 403.6(e));

7. Measurement of Pollutants;

a. The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Utility Services Department Director, of regulated Pollutants in the Discharge from each regulated process.

c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 16-4-41 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative,

the User shall submit documentation as required by the Director of Utilities Services or the applicable Standards to determine compliance with the Standard.

e. Sampling must be performed in accordance with procedures set out in Section 16-4-42 of this ordinance.

8. [Reserved]

9. Any other information as may be deemed necessary by the Director of Utilities Services to evaluate the permit application; and

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

Section 16-4-21 [Reserved - Wastewater Discharge Permitting: General Permits]

Section 16-4-22 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 16-4-45A.

B. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Utility Services Department Director prior to or together with any reports to be signed by an authorized representative.

Section 16-4-23 Wastewater Discharge Permit Decisions

The Utility Services Department Director will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Utility Services Department Director will determine whether or not to issue a wastewater discharge permit. The Utility Services Department Director may deny any application for a wastewater discharge permit or place upon it such conditions and restrictions as authorized by this ordinance.

Section 16-4-24 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Utility Services Department Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

Section 16-4-25 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Utility Services Department Director to prevent Pass Through or Interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the TCS and POTW, and prevent sanitary sewer overflows.

A. Wastewater discharge permits for SIUs must contain and for all other Users may contain:

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

2. A statement that the wastewater discharge permit is nontransferable without prior notification to the Town in accordance with Section 16-4-28 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

3. Effluent limits based on applicable Pretreatment Standards and/or requirements for BMPs;

4. Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of Pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

5. [Reserved]

6. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

7. [Reserved]

8. [Reserved]

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

2. Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works;

3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;

4. Development and implementation of waste minimization plans, including but not limited to BMPs, to reduce the amount of Pollutants discharged to the TCS and POTW;

5. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the TCS and POTW;

6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and

8. Other conditions as deemed appropriate by the Utility Services Department Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Section 16-4-26 Wastewater Discharge Permit Issuance Process

A. Reserved.

B. Permit Appeals. The Utility Services Department Director shall provide public notice of the issuance of an individual wastewater discharge permit. Any Person, including the User, may petition the Utility Services Department Director to reconsider the terms of a wastewater discharge permit within twenty (20) days of notice of its issuance.

1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit. If appeal is from denial, the appeal should set forth all reasons the application for permit, renewal, or reissuance should have been granted.

3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

4. If the Utility Services Department Director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Arizona Superior Court for Maricopa County within thirty (30) days of final administrative action. This article cannot confer jurisdiction upon the Arizona Superior Court for Maricopa County by only establishes when action may be ripe and administrative remedies have been exhausted.

Section 16-4-27 Wastewater Discharge Permit Modification

A. The Utility Services Department Director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State, or local Pretreatment Standards or requirements;

2. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

3. A change in the TCS or POTW that requires either a temporary or permanent reduction or elimination of the authorized Discharge;

4. Information indicating that the permitted Discharge poses a threat to the TCS and/or POTW, Town personnel, or the receiving waters;

5. Violation of any terms or conditions of the wastewater discharge permit;

6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

7. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;

8. To correct typographical or other errors in the wastewater discharge permit; or

9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 16-4-28.

B. [Reserved]

Section 16-4-28 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Utility Services Department Director and the Utility Services Department Director approves the wastewater discharge permit transfer. The notice to the Utility Services Department Director must include a written certification by the new owner or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

Section 16-4-29 Wastewater Discharge Permit Revocation

The Utility Services Department Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the Utility Services Department Director of significant changes to the wastewater prior to the changed Discharge;

B. Failure to provide prior notification to the Director of Utilities Services of changed conditions pursuant to Section 16-4-36 of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow the Utility Services Department Director timely access to the facility premises and records;

G. Failure to meet effluent limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any Pretreatment Standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular User are void upon the issuance of a new wastewater discharge permit to that User.

Section 16-4-30 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 16-4-20 of this ordinance, a minimum of thirty (30) days prior to the expiration of the User's existing wastewater discharge permit.

Section 16-4-31 [Reserved - Regulation of Waste Received from Other Jurisdictions]

Section 16-4-32 Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the TCS and POTW shall submit to the Utility Services Department Director a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their Discharge, New Sources, and sources that become CIUs subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Utility Services Department Director a report which contains the information listed in paragraph B, below. A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of Pollutants to

be discharged. The Utility Services Department Director may designate in permits issued to other Users that they must file the reports required by this Section.

B. Users described above shall submit the information set forth below.

1. All information required in Section 16-4-20 A(1)(a), Section 16-4-20 A(2), Section 16-4-20 A(3)(a), and Section 16-4-20.A(6).

2. Measurement of Pollutants.

a. The User shall provide the information required in Section 16-4-20 A(7)(a) through (d).

b. The User shall take a minimum of one Representative Sample to compile that data necessary to comply with the requirements of this paragraph.

c. Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to Pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.

d. Sampling and analysis shall be performed in accordance with Sections 16-4-41 and 16-4-42.

e. The Utility Services Department Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial Pretreatment measures.

f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the TCS and POTW.

3. Compliance Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional Pretreatment is required to meet the Pretreatment Standards and requirements.

4. Compliance Schedule. If additional Pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional Pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 16-4-33 of this ordinance.

5. Signature and Report Certification. All baseline monitoring reports (BMRs) must be signed and certified in accordance with Section 16-4-22 of this ordinance.

Section 16-4-33 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 16-4-32 (B)(4) of this ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to the Utility Services Department Directorno later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the Utility Services Department Director.

Section 16-4-34 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the TCS and POTW, any User subject to such Pretreatment Standards and requirements shall submit to the Utility Services Department Director a report containing the information described in Section 16-4-20 A(6) and (7) and 16-4-32.B(2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 16-4-
45.A of this ordinance.

Section 16-4-35 Periodic Compliance Reports

A. SIUs and other Users as may be designated by the Utility Services Department Director shall provide, at their own expense, sampling and analyses at least twice each year, in June and December, according to 40 CFR 403.12. If any sample that is taken by the SIU or the Town is not within the limits of this chapter or the Federal Categorical Standards, then the User will be required to perform the sampling and analyses as often as is determined by the Utility Services Department Director to be necessary.

B. All SIUs and other Users as may be designated by the Utility Services Department Director shall, at a frequency determined by the Utility Services Department Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of Pollutants in the Discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 16-4-22 of this ordinance.

C. All wastewater samples must be representative of the User's Discharge and analyzed in compliance with Sections 16-4-41, 16-4-42, and 16-4-43. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its Discharge.

D. If a User subject to the reporting requirement in this Section monitors any Pollutant more frequently than required by the Utility Services Department Director, using the procedures prescribed in Section 16-4-42 of this ordinance, the results of this monitoring shall be included in the report.

Section 16-4-36 Reports of Changed Conditions

Each User must notify the Utility Services Department Director of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) days before the change.

A. The Utility Services Department Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 16-4-20 of this ordinance.

B. The Utility Services Department Director may issue a wastewater discharge permit under Section 16-4-30 of this ordinance or modify an existing wastewater discharge permit under Section 16-4-27 of this ordinance in response to changed conditions or anticipated changed conditions.

C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the Discharge of any previously unreported Pollutants.

Section 16-4-37 Reports of Potential Problems

A. In the case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a non-customary batch Discharge, Slug Discharge or a Slug Load, that may cause potential problems for the TCS and POTW, the User shall immediately telephone and notify the Utility Services Department Director of the incident. This notification shall include the location of the Discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five (5) days following such Discharge, the User shall submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the

User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the TCS and POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a Discharge to occur, are advised of the emergency notification procedure.

D. SIUs are required to notify the Utility Services Department Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

Section 16-4-38 Reports from Unpermitted Users

All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Utility Services Department Director the Utility Services Department Director may require.

Section 16-4-39 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Utility Services Department Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Utility Services Department Director within thirty (30) days after becoming aware of the violation. Re- sampling by the User is not required if the Utility Services Department Director performs sampling at the User's facility at least once a month, or if the Utility Services Department Director performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Utility Services Department Director receives the results of this sampling, or if the Director of Utilities Services has performed the sampling and analysis in lieu of the User.

Section 16-4-40 Notification of the Discharge of Hazardous Waste

A. Any User who commences the Discharge of hazardous waste shall notify the Utility Services Department Director, the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any Discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of Discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the Discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 16-4-36 of this ordinance. The notification requirement in this Section does not apply to Pollutants already reported by

Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 16-4-32, 16-4-34, and 16-4-35 of this ordinance.

B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Utility Services Department Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the Discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

Section 16-4-41 Analytical Requirements

A. All Pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

B. In order to be considered for compliance with the requirements of this article, analysis of all samples must be conducted by a laboratory licensed by the State of Arizona (A.R.S. 36-495, et seq).

Section 16-4-42 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Utility Services Department Director. Where time- proportional composite sampling or grab sampling is authorized by the Utility Services Department Director, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR

Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite Samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Utility Services Department Director, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 16-4-32 and 16-4-34 [40 CFR 403.12(b) and (d)], a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Utility Services Department Director may authorize a lower minimum. For the reports required by paragraphs Section 16-4-35 (40 CFR 403.12(e) and 403.12(h)), the User is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and requirements.

D. The flow must be measured by the User at the time that the sample is taken according to 40 CFR 403.12(d).

Section 16-4-43 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Section 16-4-44 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under Section 16-4-9. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Town, or where the User has been specifically notified of a longer retention period by the Utility Services Department Director.

Section 16-4-45 Certification Statements

A. Certification of Permit Applications and User Reports - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 16-4-22; Users submitting BMRs under Section 16-4-32 B(5) [Note: See 40 CFR 403.12 (l)]; Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 16-4-34 [Note: See

40 CFR 403.12(d)]; Users submitting periodic compliance reports required by Section 16-4-35 A through D [Note: See 40 CFR 403.12(e) and (h)]. The following certification statement must be signed by an authorized representative as defined in Section 16-4-4:

> *I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified Personnel properly gather and evaluate the information submitted. Based on my inquiry of the Person or Persons who manage the system, or those Persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

B. [Reserved]

C. [Reserved]

Section 16-4-46 Right of Entry: Inspection and Sampling

The Utility Services Department Director shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Utility Services Department Director Ready Access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director of Utilities Services will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Utility Services Department Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

C. The Utility Services Department Director may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Utility Services Department Director and shall not be replaced. The costs of clearing such access shall be borne by the User.

E. Unreasonable delays allowing the Utility Services Department Director access to the User's premises shall be a violation of this ordinance. Unreasonable delays are defined in the Town’s Enforcement Response Plan, as described in Section 16-4-58.

F. The Town will maintain records of monitoring that are necessary to enforce this Section.

G. The Town may sample randomly and analyze for any Pollutants that would be anticipated in the effluent of a SIU or other User as may be designated by the Utility Services Department Director. The Town may designate an independent laboratory to conduct the sampling and analyses, and the staff of the designated laboratory shall be allowed to enter the premises of any User to sample any Discharge which may enter the wastewater collection system.

H. The User will be financially responsible for any sampling and analysis done by the Town that is not routine as provided for in this Section.

Section 16-4-47 Search Warrants

If the Utility Services Department Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Utility Services Department Director may seek issuance of a search warrant from a court of competent jurisdiction.

Section 16-4-48 Confidential Information

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Utility Services Department Director' inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Director of Utilities Services, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted in writing at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the applicable APP or AZPDES program or Pretreatment program, and in enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Section 16-4-49 Publication of Users in Significant Noncompliance

The Utility Services Department Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the TCS and POTW, a list of the Users which, during the previous twelve (12) months, were in significant noncompliance (SNC) with applicable Pretreatment Standards and requirements. The term SNC shall be applicable to all SIUs (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same Pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric

Pretreatment Standard or requirement, including Instantaneous Limits as defined in Section 16-4-6;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each Pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or requirement including Instantaneous Limits, as defined by Section 16-4-6, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH);

C. Any other violation of a Pretreatment Standard or requirement as defined by Sections 16-4-6, 16-4-7, 16-4-8, and 16-4-9 (Daily Maximum, long-term average, Instantaneous Limit, or narrative Standard) that the Director of Utilities Services determines has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of TCS and POTW personnel or the general public;

D. Any Discharge of a Pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Utility Services Department Director' exercise of its emergency authority to halt or prevent such a Discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within thirty (30) days after the due date, any required reports, including BMRs, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

Any other violation(s), which may include a violation of BMPs, which the Utility Services Department Director determines will adversely affect the operation or implementation of the local Pretreatment program.

Section 16-4-50 Notification of Violation

When the Utility Services Department Director finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Utility Services Department Director may serve upon that User a written Notice of Violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Utility Services Department Director. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Utility Services Department Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 16-4-51 Consent Orders

The Utility Services Department Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to

correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 16-4-53 and 16-4-54 of this ordinance and shall be judicially enforceable.

Section 16-4-52 Show Cause Hearing

The Utility Services Department Director may order a User which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, to appear before the Utility Services Department Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

Section 16-4-53 Compliance Orders

When the Utility Services Department Director that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Utility Services Department Director may issue an order to the User responsible for the Discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed, maintained and/or properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self- monitoring and management practices designed to minimize the amount of Pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section 16-4-54 Cease and Desist Orders

When the Utility Services Department Director finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, or that the User's past violations are likely to recur, the Utility Services Department Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section 16-4-55 Administrative Fines

A. When the Utility Services Department Director finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Utility Services Department Director may fine such User in an amount not to exceed twenty-five thousand dollars ($25,000), in accordance with A.R.S. 49-391. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the User's property will be sought for unpaid charges, fines, and penalties.

C. Each and every day any violation continues shall be deemed and considered a separate offense. Any Person, firm or corporation violating any provisions of this chapter shall become liable to the Town for any expense, loss or damage occasioned by the Town by reason of such violation.

D. The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth herein, the Town may institute any other remedies available, including, but not limited to, a civil action to recover any and all monies due the Town.

E. Users desiring to dispute such fines must file a written request for the Utility Services Department Director to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the Utility Services Department Director may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Utility Services Department Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

F. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section 16-4-56 Emergency Suspensions

The Utility Services Department Director may immediately suspend a User's Discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened Discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health, safety or welfare of Persons and/or TCS and POTW employees; damage or cause to damage the collection, treatment recharge/reuse system, or any part thereof, or cause a detrimental decrease in recharge water quality. The Utility Services Department Director may also immediately suspend a User's Discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the TCS and POTW, or which presents, or may present, an endangerment to the environment.

A. Any User notified of a suspension of its Discharge shall immediately stop or eliminate its wastewater Discharge. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Utility Services Department Director may take such steps as deemed necessary including, but not limited to, immediate severance of the Sewer Connection, to prevent or minimize damage to the TCS and POTW, the aquifer or other

receiving waters, or endangerment to any individuals. The Utility Services Department Director may allow the User to recommence its Discharge when the User has demonstrated to the satisfaction of the Utility Services Department Directorthat the period of endangerment has passed, unless the termination proceedings in Section 16-4-57 of this ordinance are initiated against the User.

B. A User that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Utility Services Department Director prior to the date of any show cause or termination hearing under Sections 16-4-52 or 16-4-57 of this ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

Section 16-4-57 Termination of Discharge

In addition to the provisions in Section 16-4-29 of this ordinance, any User who violates the following conditions is subject to discharge termination:

A. Violation of wastewater discharge permit conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its Discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to Discharge;

D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

E. Violation of the Pretreatment Standards in Section 16-4-5 through 16-4-11 of this ordinance.

Such User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under Section 16-4-52 of this ordinance why the proposed action should not be taken. Exercise of this option by the Utility Services Department Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

Section 16-4-58 Alternative Administrative Enforcement

As an alternative to the administrative enforcement procedures and remedies delineated in Sections 16-4-50 through 16-4-57 of this ordinance, the Utility Services Department Director may elect to administratively prosecute violations of this chapter in accordance with the procedures delineated in the Town’s Enforcement Response Plan promulgated and adopted by the Town pursuant to statutory requirements set forth in the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977. A copy of the Enforcement Response Plan will be available through a public records request from the Town Clerk.

Section 16-4-59 Judicial Enforcement Remedies

A. Injunctive Relief

When the Utility Services Department Director finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, the Utility Services Department Director may petition the Superior Court of Arizona, Maricopa County, through the Town's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Utility Services Department Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

B. Civil Penalties

1. A User who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or any order issued hereunder, or any other Pretreatment Standard or requirement shall be liable to the Town for a maximum civil penalty of up to twenty-five thousand dollars ($25,000) per violation, per day, in accordance with A.R.S. 49-391. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. A.R.S. 49-391 permits recovery of civil penalties provided therein by action in superior court or negotiated settlement agreement. No consent decree in superior court or negotiated settlement may become final until the Town has provided a period of thirty (30) days for public comment.

2. The Utility Services Department Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town.

3. In determining the amount of civil liability, the Town or Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions taken by the User to reduce, mitigate and/or eliminate the violation and any future potential violations of a similar nature, the compliance history of the User, and any other factor as justice requires.

4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

C. Criminal Prosecution

1. A User who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than twenty-five thousand dollars ($25,000) per violation, per day, or imprisonment for not more than six (6) months, or both.
2. A User who willfully or negligently introduces any substance into the TCS and POTW which causes personal injury or property damage shall, upon conviction, be guilty of a

misdemeanor and be subject to a penalty of up to twenty-five thousand dollars ($25,000) per violation, per day, or the cost of property repairs, whichever is greater, or be subject to imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

3. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) per violation, per day, or imprisonment for not more than six (6) months, or both.

4. In the event of a second conviction, a User shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) per violation, per day, or imprisonment for not more than two (2) years, or both.

D. Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Utility Services Department Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of Pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the Utility Services Department Director may take other action against any User when the circumstances warrant. Further, the Utility Services Department Director is empowered to take more than one enforcement action against any noncompliant User.

Section 16-4-60 Supplemental Enforcement Action

A. Penalties for Late Reports

A penalty shall be assessed to any User for each day that a report required by this ordinance, a permit, or order issued hereunder is late, beginning five (5) days after the date the report is due, according to the schedule in the Town's Enforcement Response Plan. Actions taken by the Utility Services Department Director to collect late reporting penalties shall not limit the Director of Utilities Service's authority to initiate other enforcement actions that may include penalties for late reporting violations.

B. Performance Bonds

The Utility Services Department Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, unless such User first files a satisfactory bond, letter of credit, cash, or other security device payable to the Town, in a sum not to exceed a value determined by the Utility Services Department Director to be necessary to achieve consistent compliance.

C. Liability Insurance

The Utility Services Department Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the TCS and POTW caused by its Discharge.

D. Payment of Outstanding Fees and Penalties

The Utility Services Department Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder.

E. Water Supply Severance

Whenever a User has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, water and/or sewer service to the User may be severed. Service will only recommence, at the User's expense, after it has demonstrated its ability to comply to the satisfaction of the Utility Services Department Director.

F. Public Nuisances

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Utility Services Department Director. Any Person(s) creating a public nuisance shall be subject to the provisions of the Town Code Title 3 and 4 governing such nuisances, including reimbursing the Town for any costs incurred in removing, abating, or remedying said nuisance. The remedy provided herein shall be in addition to any other remedy authorized by this Chapter.

G. Informant Rewards

The Utility Services Department Director may pay up to five hundred dollars ($500) for information leading to the discovery of noncompliance by a User.

H. Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Town. Existing contracts for the sale of goods or services to the Town held by a User found to be in SNC with Pretreatment Standards or requirements may be terminated at the discretion of the Utility Services Department Director.

Section 16-4-61 Affirmative Defenses to Discharge Violations

A. Upset

1. For the purposes of this Section, “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards

because of factors beyond the reasonable control of the User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.

3. A User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An Upset occurred and the User can identify the cause(s) of the Upset;

   b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable O&M procedures; and

   c. The User has submitted the following information to the Utility Services Department Director Services within twenty-four (24) hours of becoming aware of the Upset [if this information is provided orally, a written submission must be provided within five (5) days]:

      i. A description of the Discharge to the TCS and POTW and cause of noncompliance;

      ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

      iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the User seeking to establish the occurrence of an Upset shall have the burden of proof.

5. Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.

6. Users shall control production of all Discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Section 16-4-62 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 16-4-6(A) of this ordinance or the specific prohibitions in Sections 16-4-6(B) of this ordinance if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

A. A Local Limit exists for each Pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

B. No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the Town was regularly in compliance with the applicable APP and AZPDES permits, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

Section 16-4-63 Bypass

A. For the purposes of this Section,

1. "Bypass" means the intentional diversion of waste streams from any portion of a User's treatment facility.

2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in or reduction of production, or the additional cost of treatment/Pretreatment facilities.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications

1. If a User knows in advance of the need for a bypass, it shall submit written prior request and notice to the Utility Services Department Director, at least ten (10) days before the date of the bypass.

2. A User shall submit oral notice to the Utility Services Department Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty- four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

D. Bypass

1. Bypass is prohibited, and the Utility Services Department Director may take an enforcement action against a User for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, Personal injury, or severe property damage as defined in Section 16-4-63 A (2);

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The User submitted notices as required under paragraph (C) of this Section.

The Utility Services Department Director may approve an anticipated bypass, after considering its adverse effects, if the Utility Services Department Director determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

Section 16-4-64 Wastewater Treatment Rates - [Reserved]

Section 16-4-65 Miscellaneous Provisions

A. Pretreatment Charges and Fees

The Town may adopt reasonable fees for reimbursement of costs of setting up and operating the Town's Pretreatment Program which may include:

1. Fees for wastewater discharge permit applications;

2. Fees to recover legal costs resulting from enforcement response to any user noncompliance including, but not limited to, administrative expenses, investigation, sampling, testing, legal proceedings and filings, and continued compliance monitoring; and

3. Other fees as the Town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Town.

B. Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

Article 16-5 WATER REGULATIONS

16-5-1 Definitions

16-5-2 Utility Services department Director; rules and regulations; assignment of duties

16-5-3 Applicability; conditions for service

16-5-4 Application for domestic water service for a new unit of service; fees; design and construction standards

16-5-5 New water service connections; permit; approval; records

16-5-6 Application for water service for an existing unit of service; related fees

16-5-7 Requesting temporary service suspension; resuming service

16-5-8 Maintenance of meters and connections; right of entry for inspection

16-5-9 Changes or alterations

16-5-10 Testing of meters

16-5-11 Defective meters

16-5-12 Tampering with, damaging meters; unlawful possession of equipment or reinstatement of service

16-5-13 Schedule of rates

16-5-14 Customer Billing

16-5-15 Payment of bills; delinquent bills

16-5-16 Creation of lien for unpaid charges

16-5-17 Discontinuance of service

16-5-18 Town not liable for damages

16-5-19 Urban irrigation service; rules and regulations governing service; Applicable rates

Section 16-5-1 Definitions

"Appropriate Fees" means charges as specified in the Water Rate Schedule.

"Application" means a request to the utility for water service, as distinguished from aninquiry as to the availability or charges for such service.

"Appurtenance" means an item attached to a main structure which enables it to function, but is not considered an integral part of it.

"AOC Application" means an Application for Approval of Construction, which must be filed and approved by the Town in order to receive domestic water service for a new unit of service.

"ATC Application" means an Application for Approval to Construct, which must be filed and approved by the Town in order to start construction and installation of the approved facilities.

"Billing Period" means the time interval between two (2) consecutive meter readings that are taken for billing purposes.

"Customer" means the owner, official custodian or person in control of any premises supplied domestic water service by or in any manner connected to the water system of the Town.

"Distribution system" means the network of public waterlines which compose the basic grid and distribution system for municipal water service.

"Domestic water" means water supplied through the pipes of the water system of the Town.

"Due Date" means the date that customer payments are to be in the TofQCWD's office.

"Irrigation Service" means the service line between the irrigation main line and discharge port (also known as the red-head) and includes any valves that may be attached.

"Manual" means the Town of Queen Creek Design & Construction Standards Manual, which was adopted by resolution of the Town Council, and is available online at http://www.queencreek.org/Index.aspx?page=557.

"Meter" means the instrument for measuring and indicating or recording the volume of water that has passed through it.

"Meter Tampering" means a situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording and broken meter seals.

"Normal Business Hours" as defined on the Town of Queen Creek's Web site.

"Non-Potable Water" means any water which is not safe for human consumption pursuant to the standards set by the Arizona Department of Environmental Quality.

"Potable water" means any water which is safe for human consumption pursuant to the standards set by the Arizona Department of Environmental Quality.

"PWS System" means the Town's Public Water Supply System. "04-07-033"

"Second Notice" means the customer billing statement that is sent out fifteen (15) days after the first notice and allows ten (10) additional days before termination of service. This notice will be in red ink and contain Notice of Termination language.

"Service Line" means that pipeline between a water main and the meter.

"Service Connection" means the line after the meter that is the property of the customer. It is the customer's responsibility for the maintenance of the plumbing after the meter.

"Source facilities" means all components and facilities utilized in the production, treatment, storage and delivery of potable water to the distribution system.

"Town" means the Town of Queen Creek.

"TofQCWD" means the water division of the Town of Queen Creek Utility Services Department, which is located in the Town's Development Services Building, at 22358 S. Ellsworth Road, Queen Creek, AZ 85242.

"Unit of service" means each structure, group of structures, portion of a structure or real property which is served by a separate water meter.

"Urban Irrigation" means the delivery of non-potable water from Central Arizona Project or designated wells to certain properties through pipelines or ditches for the purpose of watering lawns in areas where this service is available.

"Water Unit" means any appurtenances used in the delivery of water in PWS.

"Water Rate Schedule" means the Town's water rate schedule, which was adopted by resolution of the Town Council, and is available to the public at the TofQCWD or online at http://www.queencreek.org/Index.aspx?page=481.

"Town Council" means the duly elected Town Council of the Town of Queen Creek,Arizona.

Section 16-5-2 Town Utility Services Department Director; rules and regulations; assignment of duties

A. The Utility Services Department Director of the Town is designated as the Utility Services Department Director and shall have full charge over and direction of the PWS system and all improvements, extensions and equipment pertaining thereto, and shall have charge and supervision over all employees assigned to the work thereon. Any powers granted to or duties imposed upon the Utility Services Department Director may be delegated by the Utility Services Department Director to other Town Personnel.

B. The Town may make rules and regulations not in conflict with the provisions of any ordinance governing the use of the connections to the water distribution system of the Town. Such rules and regulations do not become effective until approved by the Town Council.

Section 16-5-3 Applicability; conditions for service

A. Domestic water may be supplied by the Town to customers upon the terms and conditions prescribed in this article, and not otherwise.

B. The determination of the Utility Services Department Director as to whether any Unit of Service comes within the meaning of this article so as to require a separate service connection, meter box and turn-off valve shall be final; provided, that the owner or occupant of such premises shall have the right to appeal from such decision to the Town Council at its next regular meeting. In the event of any such appeal, the determination of the Town Council shall be final.

Section 16-5-4 Application for domestic water service for a new unit of service; related fees; design and construction standards

A. Prior to starting Construction or installation of facilities an ATC, the approved application from the proper governing agency must be received by the Town.

B. Prior to the furnishing of domestic water to a new unit of service, the contractor or owner-builder must provide an AOC Application and submit all necessary application materials and fees to the TofQCWD. AOC Application materials and related fees are contained in the Manual.

C. The TofQCWD shall have the authority to approve the design, issue permits and conduct inspections of all water units and components that are to be connected to the PWS system.

D. The design and construction of all water units and components under the jurisdiction of the TofQCWD must conform to the water design and construction specifications set forth in the Manual.

E. All water units to be attached to the PWS system shall be inspected by personnel of the TofQCWD during construction. The TofQCWD shall be notified at least two (2) business days prior to attaching to the PWS system. In making a connection to the PWS system, no physical alteration shall commence until an authorized TofQCWD inspector is present. No domestic water service shall be turned on prior to obtaining TofQCWD final approval of the unit's construction.

Section 16-5-5 New water service connections; permit, approval, records

A. No person shall make any connections with the PWS system or any appurtenance thereof without first obtaining written (and/ or verbal?) authority from the Utility Services Department Director. (valid authorization?)

B. Each person making an application for a water service connection shall obtain a valid permit from the Town as a prerequisite for the approval of the required water service connections. All applications for water service connections shall be accompanied by the current fees for such work.

C. The number, location, manner of connection and size of all water service connections shall be subject to the approval of the Utility Services Department Director.

D. The Town shall keep a record of all building water connections made and the type of meter, together with the name of the owner of the property, the owner's agent or a representative.

Section 16-5-6 Application for water service for an existing unit of service; related fees

A. Before turning on domestic water to an existing unit of service, the property owner or occupant thereof shall complete an application for water service with the TofQCWD or online at https://www.queencreek.org.

B. The application must be accompanied by the appropriate fees as set forth in the Water Rate Schedule.

C. Domestic water service shall not be furnished to any property unless the application is completed and all charges against the property of any nature whatsoever due and payable to the Town have been paid. This includes any deposits that may apply.

D. Any delinquent amounts owing on an existing or prior accounts must be paid when a property owner or occupant applies to open another service account. Failure to pay the delinquent amount owing on a prior account or accounts constitutes grounds for the Town to refuse new service.

E. Domestic water Customers shall be required to notify the TofQCWD of any change in mailing address, occupancy, or ownership within fifteen (15) days after such change occurs. Failure to contact the TofQCWD may result in penalties or late charges which would be the responsibility of the customer.

F. Under normal conditions, domestic water service shall be provided no earlier than one (1) business day after an application is completed.

G. If domestic water service is requested to be provided on the same day that the application is completed, that request must be made with the TofQCWD no later than 4:00 p.m. local time, and a same day service fee as set forth in the Water Rate Schedule will apply. All fees shall be due and payable at the time of the service request.

Section 16-5-7 Requesting temporary service suspension; resuming service.

A. Customers with domestic water service may request that the TofQCWD suspend water service temporarily. Customers desiring to discontinue the use of water must give a one (1) business day notice thereof in person at the TofQCWD or by phone speak directly to a TofQCWD Customer Service Representative during the Town's normal business hours. If request is made online at https://www.queencreek.org, request to discontinue service must be made during normal Town business hours or charges for water service will be continued until such notice is given.

B. As a condition of service suspension, the customer shall pay any outstanding charges to the TofQCWD before the water meter will be turned off.

C. To resume domestic water service, the owner or occupant shall pay any past-due fees. Owners or occupants shall allow the TofQCWD one (1) business day to reestablish service when requested during normal Town business hours. If a request to reestablish service is made after normal Town business hours, the request will be treated as having been made on the next business day.

D. If domestic water service is requested to be resumed on the same day that the request for resuming service is made, that request must be made in person with the TofQCWD or by phone speaking directly to a TofQCWD Customer Service Representative no later than 4:00 p.m. local time and same day service fee shall apply.

E. Due to extenuating circumstances, such as broken or leaking pipes or other causes that in the opinion of the TofQCWD constitute good cause, the TofQCWD may refuse to resume any unit of service until such time as it is appropriate and safe to do so.

F. Customers remain responsible for any water used, even if water service was turned off or locked. If the TofQCWD determines that water is used, the customer will be billed for it.

Section 16-5-8 Maintenance of meters and connections; right of entry for inspection

A. All water meters shall remain the property of the Town, and the Town shall be responsible for maintenance of meters, except in cases where they are willfully damaged by the customer.

B. The water customer shall maintain all water lines and connections within the property and after the meter.

C. It shall be the responsibility of the customer to ensure that access by employees of the Town to the water meter is not obstructed by landscape materials, vehicles or any other obstruction. In the event that any authorized employee is refused admittance to any premises or is hindered or prevented from inspecting the water system upon such premises, the TofQCWD reserves the right to disconnect services to such premises after giving twenty-four (24) hours' notice to the property owner or occupant of its intention to do so if the obstruction is not removed.

D. If the property owner or occupant, having received a notice of accessibility/obstruction, removes such obstruction and notifies the TofQCWD within twenty-four (24) hours of such removal, a service fee as set forth in the Water Rate Schedule will be assessed to cover expenses for returning to the property to gain access to the meter.

Section 16-5-9 Changes or alterations

Any person receiving domestic water service from the Town desiring to make any changes or alterations in the existing water connection shall be required to furnish the Utility Services Department Director a statement of the changes or alterations to be made, and receive the Utility Services Department Director's written permission before any such changes or alterations are made.

Section 16-5-10 Testing of meters

It shall be the privilege of each customer of the TofQCWD to insist upon a meter test. After the meter has been field tested by the TofQCWD and if such meter is found incorrect, it shall be immediately replaced by the Town. If the field test indicates that the meter is registering correctly, the customer may insist that the meter be removed and subjected to a shop test. If the shop test indicates that the meter is registering correctly, a service fee as set forth in the Water Rate Schedule will be levied against the customer requesting such test.

Section 16-5-11 Defective meters

When a meter in service less than thirteen (13) months is proven defective, the charge for any month affected shall be equal to an average based upon the charges for the three (3) preceding months or length of service, whichever is lesser. In instances where water service has been supplied for a period in excess of thirteen (13) months, the charge for any month affected shall be equal to an average based upon the charges for that month in the previous year together with one month next preceding and next following the previous year in question.

Section 16-5-12 Tampering with, damaging meters and appertenances; unlawful possession of equipment or reinstatement of service

A. It shall be unlawful for any unauthorized person to knowingly have and keep in his possession or under his control any turn-off valve key or hydrant wrench to the PWS system and no person shall, without authority from the Utility Services Department Director, make, construct, buy, sell or in any way dispose of to any person any turn-off valve key or hydrant wrench for use on the PWS system.

B. It shall be unlawful to remove unmetered water from Town mains without express approval of the Utility Services Department Director.

C. Water meters shall be sealed by the proper Town representatives in such a manner as to prevent all tampering with or damage to the mechanism thereof, without breaking the securing device, and no person shall break or remove a securing device, or willfully damage or destroy a meter.

D. No person shall destroy, obstruct or damage any meter box; or remove such box except for the purpose of inspecting meter readings; or destroy the lid or cover belonging thereto; or place refuse or debris therein.

E. No person whose domestic water service has been discontinued and rendered inoperable by the Town placing a seal on the turn-off valve of the water meter shall break or remove such seal in an effort to reinstate domestic water service. Any person

who breaks or removes such seal, in addition to other penalties provided by law, shall pay an administrative charge as set forth in the Water Rate Schedule prior to the Town reinstating domestic water service.

Section 16-5-13 Schedule of rates

A. The Town Council may biennially by separate ordinance or resolution set the schedule of rates to be assessed for domestic water service.

B. Water service rates shall be apportioned to include a user charge relating to the volume of water usage, applicable taxes and fees, and customer billing and administration.

C. Water service rates shall be allocated in such a manner that is proportionate to the cost of providing water service to each customer insofar as those costs can reasonably be determined.

D. In addition to the water service charges listed above, the Town Council may set other fees or charges as desired.

Section 16-5-14 Customer Billing

A. Monthly statements shall be rendered by the TofQCWD to each customer, billing periods to normally consist of approximately thirty (30) days. Statements shall be rendered for each customer based upon the service rendered thereby. Second Notices shall also inform the customer of the consequences of nonpayment and the telephone numbers of appropriate personnel authorized to resolve billing disputes. Each statement shall contain the customer's account number; the reading date; the delinquent date; the present and previous meter reading; the consumption in thousand gallons; the amount of charges for water services; new account fee or service call fee, if applicable; previous balance, if any; applicable taxes; and total amount due.

B. First and/or final statements rendered for periods of less or more than thirty (30) days shall have the minimum monthly water charges prorated daily. In addition to the prorated water charges, the statement shall include a charge for each thousand gallons of water metered during said period plus applicable taxes.

C. Any property upon which domestic water services may have been furnished by the Town, and which may not for any reason have been assessed for such use on the books of the Town, shall be assessed for the use for which it is in arrears. Upon the failure of the payment of these charges, the supply of water shall be turned off in accordance with Section 16-5-15, pending settlement.

Section 16-5-15 Payment of bills; delinquent bills

A. All bills rendered are due and payable upon presentation and are past due (delinquent) fifteen (15) calendar days after date rendered. If the total of such bill is not paid within ten (10) days after delinquency, domestic water service is subject to discontinuance in accordance with subsection B below.

B. Before any discontinuance of water service shall be made, other than for such purposes as specified in Section 16-5-16 below, the customer shall receive a second notice of the reason for the discontinuance from the TofQCWD and be advised, also in writing, of the opportunity to contact TofQCWD customer service personnel to present any objections within one (1) business day of the due date listed on the second notice. If, after the due date listed, the customer has not cured the delinquency and/or has not presented any reasonable objections regarding discontinuance of service, domestic water services shall be discontinued.

C. Water services shall not be resumed until such delinquent bill and the applicable service fee as set forth in the Water Rate Schedule has been collected in full from the delinquent customer. In addition, the delinquent customer may be required to place a new or additional security deposit with the TofQCWD prior to resumption of domestic water service.

D. If a customer's bill remains delinquent after discontinuance of water service in accordance with subsection B. above, the TofQCWD may assign the account to a collection agency for collection.

Section 16-5-16 Creation of lien for unpaid charges

A. Delinquent water charges shall constitute a lien against the property upon which such lien may be imposed. In order to impress and secure such lien, which shall be at the discretion of the Town water director, the following procedure shall be utilized:

1. The Utility Services Department Director shall give written notice to the owner or occupant of the property within thirty (30) days after the statement is rendered by either personally serving or mailing to such owner or occupant, at his last-known address by certified or registered mail, or the address to which the water charges billing was sent. This written notice shall indicate that the Town may impress and secure a lien on the subject property unless the owner or occupant lessee brings his delinquent bill current within thirty (30) days from service or receipt of the letter, and in addition, pays any penalties that may be due pursuant to Section 16-5-15. The notice shall also contain a statement that the owner or occupant may appeal the delinquency to the Town Council by filing such appeal within the thirty (30) day time period after receipt of such notice.

2. If the owner or occupant of the property does not bring his delinquency current or successfully prosecute his appeal to the Town Council within the thirty (30) days from service or receipt of the registered or certified letter, the Utility Services Department Director may prepare duplicate copies of a notice and claim of lien and file one copy with the county recorder and within a reasonable time thereafter service or mail by registered or certified mail the remaining copy with the owner or occupant of the property. The notice and claim of lien shall be made under oath by the Utility Services Department Director or his duly authorized representative and shall contain the following:

a. A description of the property sufficient for its identification;

b. The name of the owner or reputed owner of the property if known, otherwise the name of the occupant to whom service was rendered; and

c. The amount of the delinquent bill.

B. From and after the date of its recording in the office of the county recorder, the lien shall attach to the property until paid. A sale of the property to satisfy the lien shall be made upon judgment of foreclosure and order of sale. The Town shall have the right to bring an action to enforce the lien in the county superior court at any time after its recording, but failure to enforce the lien by such action shall not affect its validity. The recorded notice and claim of lien shall be *prima facie* evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording therein.

C. A prior recording for the purposes provided in this section shall not be a bar to a subsequent recording of a lien for such purposes, and any number of liens on the property may be enforced in the same action.

Section 16-5-17 Discontinuance of service

In the case of unnecessary waste, fraudulent representation on the part of any water customer, or in an emergency, the Town reserves the right to turn off water without notice until all charges have been paid in full and/or waste or emergency is corrected.

Section 16-5-18 Town not liable for damages

The Town shall not be held liable for any damages that may result from the shutting off or turning on of any potable or non-potable water unit supply piping or main for any purpose whatsoever, even should no notice have been given, nor for damages caused by any break or leak in any water pipe.

Section 16-5-19 Urban irrigation service; rules and regulations governing service; applicable rates.

A. Urban irrigation service is available to customers in select areas of the Town.

B. The rules and regulations governing the availability, character, and conditions of urban irrigation service are promulgated by the TofQCWD and adopted by resolution of the Town Council. Those rules are available to the public at the TofQCWD or online at http://www.queencreek.org/.

C. Applicable rates for urban irrigation service within the Town are set forth in the Water Rate Schedule.

D. No person shall destroy, obstruct, damage or alter any irrigation service without prior written permission from the Utility Services Department Director.

ARTICLE 16-6 BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL

Section 16-6-1 Purpose; authorization

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Section 16-6-1 Purpose; authorization

This ordinance sets forth uniform backflow prevention requirements for non-single-family residential customers of the Town's Public Potable Water Supply, enables the Town to comply with Arizona Department of Environmental Quality regulations and creates a Cross-Connection Control Program (the "Program") to control contamination from Backflow.

It is decided that danger to the public health, safety, and welfare resulting from contamination or pollutants 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 by preventing the Backflow of contaminants or pollutants into the Public Potable Water Supply System;

B. Promote the awareness and elimination of Cross-Connection, actual or potential, of a customer's Auxiliary Water Supply with the Public Potable Water Supply System;

C. Provide for a continuing program of backflow prevention control, that 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, that will prevent the contamination or pollution of the Public Potable Water Supply System; and

E. Comply with the State requirements identified in Arizona Administrative Code, Title 18, Chapter 4, Article 215 (R18-4-215) entitled "Backflow Prevention" that was promulgated by the Arizona Department of Environmental Quality with an effective date of August 30, 2008, which is incorporated herein by this reference (hereinafter referred to as "State Rule R18-4-215").

F. Require non-single-family residential customers to install, test, and maintain approved backflow prevention assemblies on the plumbing system.

G. Enforce penalties and remedies, including nuisance abatement, civil fines and termination of service, for violations of this Article by Customers.

Section 16-6-2 Administration

A. Except as otherwise provided herein, the Utility Services Department Director (the "Director") shall administer, implement, and enforce the provisions of this Article. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other Town personnel, including but not limited to, Water Division personnel and the Town Civil Hearing Officer.

B. The Town may make rules and regulations not in conflict with the provisions of this Article.

Section 16-6-3 Definitions

The following words and terms, when used in this Article, shall have the following definitions, unless the context clearly indicates otherwise:

"**Approved**" means approved in writing by the Director of Utility Services as meeting an applicable specification stated or cited in this Article, and as suitable for the proposed use.

The term "**Approved Backflow Prevention Assembly**" means an assembly that has been approved by the Director of Utility Services. An approved Backflow Prevention Assembly shall have met the standards established by the American Water Works Association-AWWA C506-78 most recent revised publication "Standards for Reduced Pressure Principle and Double Checkvalve Backflow Prevention Assemblies", and shall also have fully complied with the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California published in the Ninth edition of the "Manual of Cross-Connection Control" or another third party certifying entity approved by the Director of Utility Services.

The term "**Approval Form**" means the writing evidencing the Director's approval of the type and location of a Customer's Backflow Prevention Assembly.

"**Assembly**" means any item, equipment, device or practice.

"**Auxiliary Water Supply**" means any water supply on or available to the premises other than the public potable water supply, including, but not limited to, water from another purveyor's public potable water supply, treated effluent, wastewaters or industrial fluids.

"**Backflow**" means the reversal of the normal flow of water caused by either Backpressure or Backsiphonage.

"**Backpressure**" means the flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of the Public Potable Water Supply System from any source or sources other than the intended source.

"**Backsiphonage**" means the flow of water or other liquids, mixtures or substances into the distribution pipes of the Public Potable Water Supply System from any source other than its intended source caused by the reduction of pressure in the potable water supply system.

"**Cross-Connection**" means any physical connection or arrangement of piping or fixtures between two (2) otherwise separate piping systems, one of which contains Potable Water and the other Nonpotable Water or industrial fluids through which, or because of which, Backflow may occur into the Public Potable Water System. This would include, without limitation, any temporary connections such as swing connections, removable sections, four-way plug valves, spools, dummy section of pipe, swivel or change-over devices or sliding multiport tube.

"**Customer**" means any person in control of any non-single-family residential use of premises, facilities, or buildings supplied Potable Water by the Public Potable Water Supply System.

"**Director**" or "Utility Services Department Director" The person designated pursuant to Section 16-2-2 of this Ordinance.

"**Nonpotable Water**" means water that is not safe for human consumption.

"**Person**" means any individual, owner, official custodian, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, state, municipality, Indian tribe, political subdivision of the state, federal governmental agency, or any other legal entity, including their representatives, agents or assigns.

"**Potable Water**" means any water that, according to standards recognized by the Town of Queen Creek is safe for human consumption.

"**Public Potable Water Supply System**" means the system operated by the Town of Queen Creek that provides potable water to the public.

"**TofQCWD**" or "**Water Division**" means the water division of the Town of Queen Creek Utility Services Department subject to the supervision of the Director.

Section 16-6-4 Backflow prevention required

A. Backflow prevention shall be required at every service connection to a Customer's system when the Water Division determines the potable water supplied by the Public Potable Water System may be subject to contamination, pollution or other deterioration of quality by conditions or potential conditions within the Customer's water system.

B. Backflow prevention required by the Water Division shall be sufficient to protect against the potential degree of hazard to the Public Potable Water System from the Customer's water system.

Section 16-6-5 Criteria for determining potential degrees of hazard

The potential degree of hazard to the Public Potable Water System from a Customer's water supply system, and therefore requiring a Backflow Prevention Assembly, shall be determined using the following hazard factors:

A. *Health*: Any actual or potential condition, device or practice which, in the judgment of the Water Division, may create a threat of contamination to a potable water supply or may create a danger to the health and well-being of the potable water consumers.

B. *Plumbing*: An actual or potential plumbing cross-connection in a customer's water supply system that has not been protected by an Approved Backflow Prevention Assembly. A plumbing hazard may be either a pollution or contamination hazard.

C. *Non-health*: Any actual or potential condition, device or practice which, in the judgment of the Water Division, may create a threat of pollution to a potable water supply system. The maximum degree of intensity of pollution to which a potable water supply system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause damage to the distribution system or its appurtenances.

D. *System*: Any actual or potential condition, device or practice which, in the judgment of the Water Division may create a threat or severe damage to the physical properties of a potable water supply system or that would have a protracted effect on the quality of the potable water in the system.

Section 16-6-6 Prohibition of cross-connection

It shall be unlawful for any Customer or any other person to cause a Cross-Connection to be made or allow one to exist for any purpose whatsoever between the Public Potable Water Supply System and any other source of water supply without previously obtaining the written approval of the Director. Any such Cross-Connection that has not been approved, as described above, shall be strictly prohibited.

Section 16-6-7 Responsibility for backflow prevention control

A. It shall be the responsibility of the Director to protect the Public Potable Water Supply System by applying the requirements, remedies, penalties and enforcement provisions set forth in this Article.

1. The TofQCWD shall have the following responsibilities:

(a) The Water Division shall administer and enforce all applicable Cross-Connection control provisions of the Arizona Revised Statutes and the Ninth edition of the Manual of Cross-Connection Control (the "USC Manual") published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research ("USC-FCCCHR" or the "Foundation"). The USC Manual is hereby incorporated by reference with one copy on file with the Water Division.

(b) The Water Division shall determine whether a facility or activity is a facility or an activity listed in Section 16-6-8 below and, therefore, requires backflow protection. The Water Division's responsibility includes inspection as necessary of all new and existing non-single-family residential buildings and facilities connected to the Public Potable Water Supply System.

(c) The Water Division shall require installation by Customer of appropriate backflow prevention as required by the Town's building codes.

(d) The Water Division shall approve the type and location of all backflow prevention assemblies in accordance with this Article 16-6 and all other codes and ordinances of the Town. Such approval shall be evidenced in a written Approval Form, a copy of which shall be provided to Customer.

(e) The Water Division shall keep adequate records of each test of an Approved Backflow Prevention Assembly and any subsequent maintenance or repair thereof for a minimum of three years.

(f) The Water Division may abate violations of this Article as public nuisances under Town Code, Chapter 10 Health and Sanitation.

2. The Customer shall have the following responsibilities:

It shall be the responsibility of the Customer, at Customer's sole cost and expense, to prevent pollutants or contaminants from entering the potable water system of the Customer's building and the Public Potable Water Supply System. A Customer's responsibility starts at the point of service delivery from the Public Potable Water Supply System, including all water piping systems. 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 such assembly is operating properly. Customer's responsibilities include, but are not limited to, the following:

(a) Customer shall have all backflow prevention assemblies tested annually by a certified tester. Assembly testing shall be performed by a certified tester. Testing requirements shall be in accordance with the procedure outlined in the USC Manual. The Water Division may require more frequent testing if warranted. It is the responsibility of the Customer to obtain testing and submit all test results to the Water Division on a timely basis. If such test reveals the assembly to be defective or in unsatisfactory operating condition, the Customer shall have certified testers perform any and all necessary repairs to the assembly per the Water Division specification, at customer's sole cost and expense.

(b) If the Water Division or Customer becomes aware during the interim period between annual tests that an assembly is defective or in unsatisfactory operating condition, the Customer shall cause all repairs, replacement and any retesting so

that the assembly is in satisfactory operating condition, at Customer's sole cost and expense.

(c) Backflow prevention assemblies shall be installed by the Customer, at the customer's sole cost and expense, in compliance with the standards of the building department as set forth in Chapter 16 of the Town Code.

(d) In the event the Customer's internal potable water system or the Public Potable Water Supply System becomes contaminated or polluted due to a Cross-Connection or other cause, and the Customer becomes aware of said contamination, the Director and the Maricopa County Health Authority shall be promptly notified by the Customer so that appropriate measures may be taken to cure the contamination.

(e) If the assembly is out of compliance and has not been tested, a Town official from the Water Division will schedule a Town-approved tester to test and make any and all repairs that are needed at the Customer's expense. This expense will be added to the customer's water bill.

(f) Any backflow prevention assembly shall be installed in an accessible location as close as possible to the service connection with proper clearances above the ground in accordance with the current set of standard details approved by the Water Division for backflow prevention assemblies.

Section 16-6-8 Backflow prevention assemblies required

A. Unless otherwise specifically designated by the Director, an Approved Backflow Prevention Assembly 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 said tank, plumbing diameter of the supply pipe or faucet and in no case shall be less than one inch.

2. **Reduced pressure principle assembly (hereafter "RP"):** An assembly containing two independently acting approved check valves together with a hydraulic 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 be equipped with properly located test cocks equipped with brass plugs and tightly closing resilient seated shut-off valves at each end of the assembly.

3. **Pressure vacuum breaker assembly (hereafter "PVB"):** An assembly containing an independently operating, loaded check valve and an independent operating loaded air inlet valve located on the discharge side of the check valve. The assembly shall be equipped with properly located test cocks that are fitted with brass plugs and tightly closing resilient seated shut-off 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 shut-off valves at each end of the assembly that are fitted with properly located test cocks equipped with brass plugs.

B. When any of the following items or activities listed in this section are present or conducted on premises served by the Public Potable Water Supply System, a potential hazard to the Public

Potable Water Supply System shall be presumed and a backflow prevention assembly, of the type specified for that item or activity herein, must be placed at each service connection for that premises. The backflow prevention method shall be in accordance with that specified in Section 7 of the USC Manual and/or identified in the text of the subsection below. 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 Assembly be located internally within the activity of facility. The Customer must demonstrate that the proposed location will adequately protect the Town's Public Potable Water Supply System as well as satisfy the applicable requirements of the Article. For purposes of this section, the listed facilities, equipment or conditions shall be as defined in Section 7 of the USC Manual, or if not listed in the USC Manual, shall be defined in the Town of Queen Creek Construction Code. An Approved Backflow Prevention Assembly is required for the activities and facilities listed below that are connected to the Town's Public Potable Water Supply System:

Industrial facilities:

1. Aircraft and missile plants (Air Gap or RP)
2. Beverage bottling plants (Air Gap, RP)
3. Bottling plant (RP)
4. Breweries (Air Gap or RP)
5. Canneries, packing houses, reduction plants and food processing plants (Air Gap or RP)
6. Chemical plant – manufacturing, processing, compounding or treatment (Air Gap or RP)
7. Dye works (RP)
8. Dairies and cold storage plants (Air Gap, RP or DC)
9. Film laboratories 9 (Air Gap or RP)
10. Laundry and dye works (Air Gap or RP)
11. Metal manufacturing, cleaning, processing and fabrication plants (Air Gap or RP)
12. Oil and gas production, storage or transmission properties (Air Gap or RP)
13. Paper and paper production plants (Air Gap or RP)
14. Power plants (Air Gap or RP)
15. Radioactive material or substance-plants or facilities handling (Air Gap or RP)
16. Rubber plants – natural or synthetic (Air Gap or RP)
17. Sand and gravel plants (Air Gap or RP)
18. Semiconductor manufacturing facilities (Air Gap or RP)
19. Manufacturing, processing and fabricating plants using toxic or non-toxic materials (RP)

20. Mortuaries (RPA)

21. Sewage and storm drain facilities, reclaimed water (Air Gap or RP)

Medical facilities:

22. Research laboratories (Air Gap or RP)

23. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics (Air Gap or RP)

24. Veterinary hospital, animal research or animal grooming shops (Air Gap or RP)

Commercial and educational facilities:

25. Buildings: Any structure having a cross connection in violation of the Town of Queen Creek 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 Town's Public Potable Water Supply System (Air Gap, RP).

26. Carwash facilities (Air Gap or RP)

27. Motion picture studios (Air Gap or RP)

28. Storage buildings having booster pumps or above – ground storage tanks (Air Gap, RP)

29. Multiple services – interconnected (Air Gap, RP)

30. Mobile Home Park (RP). Exception: existing mobile home parks unless a specific hazard is identified

31. Recreational vehicle parks (RP)

32. Schools and colleges with laboratories (Air Gap or RP)

33. Retail shopping centers, strip malls; retail and industrial shell buildings (when one service supplies more than one tenant) (RP). 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

34. Any premises where a cross-connection is maintained (RP)

35. Automotive repair (RP)

36. Auxiliary water systems (interconnected) (RP)

37. Auxiliary water system not interconnected (DC)

38. Beauty shops

39. Buildings with sewage ejectors (RP)

40. Chemically treated potable or non-potable water systems

41. Any connection to a fire hydrant (except fire department equipment) (RP or Air Gap)

42. Irrigation system ((Premises having separate systems, such as parks, playgrounds, cemeteries, golf courses, schools, ranches, etc.) (RP)

43. Public swimming pools (PVB)

44. Sewage and storm-drainage facilities (RP)

Portable or temporary service or equipment:

45. Construction sites or construction water services (Air Gap)

46. Mobile equipment utilizing public portable water (e.g., water trucks, street sweepers, hydro-vac, etc.) (Air gap)

47. Portable insecticides and herbicide spray tanks (Air Gap or RP)

Miscellaneous activities and equipment:

48. Auxiliary water system (Air Gap or RP)

49. Chemically contaminated water systems (Air Gap or RP)

50. Fire System:

(a) Class 1 or 2 when a fire protection system is proposed, a double-check valve assembly, including two check valves, two OS&Y gate valves, and four test cocks shell be installed on the supply side of the sprinkler fire protection line. Occasionally, an FDC will also be required by the Queen Creek Fire Department. These backflow prevention devices must be UL listed and/or listed by Factory Mutual Research Corporation. A serviceable check valve is also required on the fire rise; this check valve must also be UL listed and/or listed by Factory Mutual Research Corporation. Check valve assemblies are required to be inspected, tested and maintained at least annually to verify the valves are properly functioning. An annual flow and valve confidence test is also required to be conducted by a qualified and certified person approved by the Town's Water Division. The flow test will be equal to the highest amount of gallons per minute that is required by the system. Test results shall be provided to the Town's Water Division and the Fire Marshal within 30 calendar days following the inspection. Any system that fails inspection must be reported to the Fire Marshal and the system needs repaired immediately.

(b) Class 3, 4, 5 or 6 (RP).

51. 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 that would constitute a health, system, pollution or plumbing hazard if introduced into an approved water supply (RP).

52. Irrigation systems:

(a) System using a chemical injection system (RP)

(b) System having elevated areas which are higher than six inches below the PVB or multiple services (RP)

(c) System not subjected to backpressure (PVB)

53. Restricted, classified or other closed facilities including civil works (Air Gap or RP)

54. Solar heating system–direct and auxiliary (RP). Exception: once-through solar heating systems

C. The Water Division shall determine on a case-by-case basis Backflow prevention requirements for any facilities, buildings, conditions or activities not listed in this section to prevent contamination or pollution of the Town's Public Potable Water Supply System.

D. All assemblies shall be above ground (design spec manual) accessible for testing and admittance. A pressure vacuum breaker assembly shall be installed properly above ground.

E. Unless a cross connection problem is specifically identified, or as otherwise provided in this ordinance, the requirements of this ordinance do not apply to single-family residences used solely for residential purposes.

F. Close as practicable is the point nearest to the service delivery where the assembly can be installed. The location shall be within 5 feet of service but, in no event, beyond the first tap.

G. 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 Water Division.

When two or more of the items or activities listed above are present or conducted on the same premises and served by the same service connection, the most restrictive backflow preventer required for any of the items or activities present or conducted on the premises shall be required to be utilized or installed at the service connection.

Section 16-6-9 Inspections

A. An inspection shall be conducted to determine whether any Cross-Connections or other hazard potentials exist and to determine compliance with this Article. The Customer's water system shall be available at all times during normal business hours for inspection by authorized personnel of the Water Division.

B. Backflow prevention assemblies shall be tested at least once a year. A notice shall be issued by the Water Division to the Customer when a backflow prevention assembly is due for testing. If the testing reveals the assembly to be defective or in unsatisfactory operating condition, repairs shall be performed, including replacement of the assembly if necessary, which shall return the assembly to satisfactory operating condition within 30 calendar days after the date of the notice issued by the Water Division. The testing and maintenance of each assembly shall be performed at the sole expense of the Customer.

C. If the Water Division or Customer learns or discovers, during the period between tests, that an assembly is defective or in unsatisfactory operating condition, the Customer shall perform any necessary repairs, including replacement of the assembly, if necessary, which shall return the assembly to satisfactory operating condition.

D. The testing of backflow prevention assemblies shall be performed by an individual certified and approved by an agency recognized by the Water Division. A tester may be suspended from

testing in Queen Creek for improper testing, maintenance, reporting or other improper practices as determined by the Water Division.

E. The Customer shall maintain records, on forms provided by the Water Division, of the results of all tests and all servicing, repairs, overhauls or replacements of the backflow prevention assembly. A copy of the records shall be promptly submitted within 7 calendar days to the Water Division after completion of the activity for which the record is made.

F. The Water Division shall have the right to enter the premises of any Customer to determine whether the Customer is complying with all requirements of this article. Customers shall allow the Water Division personnel ready access to all parts of the premises for the purposes of inspection, testing, records examination and copying, and the performance of any additional duties. Refusing to allow access or entry for Water Division personnel and unreasonable delays in allowing the Water Division personnel access, to the Customer's premises shall be a violation of this article.

Section 16-6-10 Notification of violation

When the Water Division finds that a Customer has violated, or continues to violate, any provision of this article, the Water Division may serve (by certified mail) upon that Customer a written Notice of Violation. Within 15 calendar days of the mailing of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the Customer to the Water Division. Submission of this plan in no way relieves the Customer of liability for any violations occurring before or after mailing of the Notice of Violation. Nothing in this section shall limit the authority of the Water Division to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 16-6-11 Water supply severance; notice

A. Whenever a Customer has violated or continues to violate any provision of this Article 16-6, water service to the Customer may be severed.

B. The Water Division may discontinue water service to any Customer who refuses, or unreasonably delays, entry or access to Town inspectors for inspection pursuant to section 16-6-9, or to any Customer who fails to timely submit records of tests and repairs of a Backflow prevention assembly.

C. If the Water Division discovers that a Customer has not installed a required Backflow prevention assembly or that a Backflow prevention assembly has been improperly tested or maintained, bypassed or removed, or that an unprotected Cross-Connection exists in the Customer's water system, the service connection shall be discontinued if the situation is not remedied within the time specified in the notice sent to the Customer as described in subsection (E) below.

D. Service connection to a fire sprinkler system shall not be subject to disconnection under this section, but may be subject to penalties pursuant to this Article.

E. Prior to disconnecting any service connection because a condition set forth in subsection (A), (B), or (C) above exists, the Water Division shall send a notice of service termination, by certified mail, to the Customer describing the condition and notifying the Customer that the condition must be remedied within 30 calendar days after mailing of the notice by the Water Division. If such condition is not remedied within the 30-day period, the Water Division shall send a second notice of service termination, by certified mail, to the Customer notifying the Customer that the water service will be disconnected in 10 calendar days if the condition is not remedied

within such time period. The service connection shall not be restored until the condition is remediated to the satisfaction of the Director.

F. Notwithstanding the above subsection (E), the Water Division may disconnect, without prior notice, water service to any Customer when the Water Division discovers that the Customer's water system is contaminating the Public Potable Water Supply, or the Customer's water system may cause a health hazard to the public water supply. 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.

Section 16-6-12 Plan review

A. All backflow prevention assemblies which will be installed shall be shown and specified on all required building and engineering plans. Town approval of the intended installation is required prior to issuance of any building permits.

B. Installation permits for the installation of all backflow prevention assemblies required by the Town shall be obtained from the Town prior to installation. A separate permit shall be obtained for each required backflow prevention assembly to be installed, including replacement.

C. Backflow prevention assemblies must be installed as to meet the current set of standard details and specifications of the Water Division and be tested by a certified tester and shown to be operating correctly before a temporary, or permanent, certificate of occupancy is issued by the Town.

D. The Water Division may, in writing, suspend or revoke a permit issued under the provisions of this article, whenever the permit is issued in error, or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of any provision of the Uniform Plumbing Code or this article.

Section 16-6-13 Retroactive application

A. The provisions of this Article shall apply to all new Customers and all Customers existing prior to the enactment date of the ordinance from which this article derives.

B. Customers' Backflow prevention assemblies installed prior to the enactment of the ordinance from which this article derives, and which do not comply with the requirements set forth in this article, shall be replaced with assemblies which comply with the standards set forth herein.

C. All water Customers existing prior to the enactment date of the ordinance from which this article derives shall comply with the standards set forth herein within a period of time as determined by the Water Division. The maximum time allowed for compliance shall be ten (10) days from the date of mailing of notification.

D. A change of ownership, name or type of use will require a new survey of water use. If the survey determines an assembly is required, installation needs to be completed before granting the change.

Section 16-6-14 Program fees

The Town may adopt reasonable fees for reimbursement of costs of setting up and operating the Town's Cross-Connection Control Program which may include:

A. Fees for permit applications;

B. Fees to recover legal costs resulting from enforcement to any Customer noncompliance including, but not limited to, administrative expenses, investigation, testing, legal proceedings and filings, and continued monitoring; and

C. Other fees as the Town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the Town.

Section 16-6-15 Appeals

An action or decision of the Director under this Article shall be final, provided that the Customer shall have the right to appeal to the Civil Hearing Officer under the provisions of Article 5-6 and Article 5-7 of Chapter 5 Municipal Court of the Town Code; provided such appeal is in writing and received by the Civil Hearing Officer within 15 calendar days after appellant is notified of such decision.

Section 16-6-16 Civil fines and other remedies

A. Whenever a Customer has violated or continues to violate any provision of this Article, the Director may elect to commence an enforcement action as a civil code infraction as provided in Chapter 5 of the Town code, and to impose a civil penalty not to exceed $2,500 for each day a violation exists beyond the initial notice constituting a separate offense in the discretion of the Town Civil Hearing Officer.

B. If a situation, which would otherwise result in discontinuation of water service, is not remedied within the time provided in the notice of service termination sent to the Customer, the Director of Utility Services, at his discretion, may install a backflow prevention assembly at the Customer's point of service delivery and bill the Customer for all costs, together with all applicable penalties.

C. The Director, at his discretion, may publish in the largest daily newspaper published in the Town, notice of customers who at least once during the preceding twelve-month period were in violation with any requirement of this article. The publication shall also summarize any enforcement action taken.

Section 16-6-17 Violations deemed a public nuisance

In addition to the enforcement process and penalties provided herein, any condition caused, or permitted to exist in violation of any provision of this article is a threat to public health, safety and welfare, and is declared and deemed a public nuisance under Town Code Section 10-3-2 and shall be corrected or abated as required by the Director. Any Person(s) creating a public nuisance shall be subject to the provisions of Town Code Chapter 10 Health and Sanitation governing such nuisances, including reimbursing the Town for any costs incurred in removing, abating, or remedying said nuisance. The remedy provided herein shall be in addition to any other remedy authorized by this article.

Section 16-6-18 Town not liable for damages

The Town shall not be held liable for any damages that may result from the shutting off or turning on of any potable or non-potable water supply piping or main for any purpose whatsoever, even should no notice have been given, nor for damages caused by any break or leak in any pipe or assembly.

ARTICLE 16-7 CONSTRUCTION AND FINANCING OF UTILITIES FACILITIES

Section 16-7-1 Policy

Section 16-7-2 Applicability

Section 16-7-3 Definitions

Section 16-7-4 Plans, specifications

Section 16-7-5 Extension reimbursement agreements authorized

Section 16-7-6 Agreement between town and developer-owner

Section 16-7-7 Agreement in writing; authority to execute

Section 16-7-8 Financing-Generally

Section 16-7-9 Reimbursement extension cost

Section 16-7-10 Bidding for installation of extension lines; approval of costs

Section 16-7-11 Allocation of reimbursable cost-water extension

Section 16-7-12 Allocation of reimbursable cost-sewer extension

Section 16-7-13 Collection of allocated reimbursement costs; payment

Section 16-7-14 Service from other source; unassessed parcels; limitation

Section 16-7-15 Dedication of extension line

Section 16-7-16 Expiration of agreement

Section 16-7-17 Administration fee

Section 16-7-18 Projected allocation

Section 16-7-19 Assignability of agreement

Section 16-7-1 Policy

There is hereby established as set forth in this article a policy and orderly program for extension of the services and facilities of the town water and sewer system to serve and provide for newly

developed areas and subdivisions within the town and those areas and subdivisions outside of the town for which town water or sewer service is desired and available.

It is in the public's interest to maximize the use of its public rights-of-way. To this end the town has adopted master water and sewer plans that plan the size of lines and mains to service large areas. This eliminates the needs and extra expense of installing and maintaining several smaller lines and mains within the same public right-of-way. The existing system and currently planned future system covered by the development fees does not include systems for all sections of the Town's adopted service areas.

The development community is required to construct water and sewer lines and mains, and other facilities, in accordance with the Town's subdivision ordinance and approved master plans. It is the intent of this article to establish a method of reimbursement to the initial developer for the additional cost of providing a water or sewer system in excess of that needed to serve their development.

Section 16-7-2 Applicability

The elements of the extension policy and program stated in this article shall apply to extension of the town water and sewer systems.

Section 16-7-3 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cost means the actual construction cost pursuant to a written construction contract for an extension which is acceptable and approved by the Utility Services Director, or designee.

Developer-owner means any person who is responsible for the development of land (the "project") creating a demand on the town's water and sewer system and engaged in the development of one or more parcels of land and contracting for a town water or sewer system extension.

Extension means a water or sewer line subject to repayment of certain costs and defined as any one or more of the following: (i) mains extended beyond the limits of the project, constructed through the project, or constructed along the frontage or bounder of the project; (ii) mains which serve other property owners other than the developer-owner who is developing the project; or (iii) mains which are constructed to contain additional capacity to provide adequate flow above and beyond that required by the project based on the volume of flow and type of waste generated by the project

Participating charge means the proportionate share of the cost (construction contract price) based on benefits derived in accordance with standards determined by the Utility Services Director and approved by the town for any existing main.

Subsequent user means any person who connects to, and is serviced by, an existing extension water or sewer line.

Section 16-7-4 Plans, specifications

Upon development of any property, area or subdivision within the town or of any property area or subdivision outside of the town that resides within the approved designated water and/ or sewer service areas for which town water or sewer service is desired and available, all plans and specifications for water and sewer systems shall be prepared by a professional engineer, registered in the state, and in accordance with the town's standards and specifications.

If it becomes necessary to extend the town's water or sewer system, the cost of the extension will be the responsibility of the developer-owner. The plans and specifications for the extension must be approved by the Utility Services Department Director of the town.

Section 16-7-5 Extension reimbursement agreements authorized

The town may enter into an extension reimbursement agreement with a developer-owner who proposes to install an extension to service his development. Such an agreement shall provide for the collection, by the town, of a pro rata share of the costs for the extension from subsequent users of the extension and reimbursement to the developer-owner. The agreement shall comply with the provisions of this article.

An extension reimbursement agreement may only be entered into for those development projects which, in addition to complying with the provisions of this article, comply with the town's planning objectives.

Section 16-7-6 Agreement between town and developer-owner

Before the extension of any water or sewer main shall be made to serve a subdivision, platted or unplatted property, or any existing main tapped to provide service for any individual or unplatted property, the developer-owner desiring such service shall execute an agreement with the town which shall include the following:

(1) A warranty of workmanship and material for mains and facilities installed which shall run to the benefit of the town for a period of at least one year from the date of acceptance by the town;

(2) A diagram of all properties which are expected to be serviced by the proposed extension. The diagram shall be provided on approved standard quarter-section maps of the Town of Queen Creek or any other standardized atlas system designated by the town;

(3) A statement that the town acquires ownership of any main and appurtenances upon completion and acceptance of the work by the town;

(4) A statement that the town's cost for inspecting such work shall be paid by the developer-owner;

(5) A statement of the developer-owner's proportionate share of the cost for previously installed mains; and

(6) A statement of the maximum possible reimbursement that may accrue to the developer-owner for the cost of mains to be installed by him but from which others may be served. If others are served, a participating charge will made at the time of their development.

Section 16-7-7 Agreement in writing; authority to execute

An extension reimbursement agreement shall be in writing and on a form provided by the town. The provisions of the written agreement shall comply with this article and shall contain the entire understanding and agreement between the town and the developer-owner. The Town will not approve and/or execute an agreement after construction or acceptance by the town of the extension. Such agreements shall be recorded in the Maricopa and Pinal County Recorders' offices.

The town manager or his designee is authorized to execute the agreement on behalf of the town. The developer-owner to whom the reimbursement is to be made must be stated on the agreement at the time of execution and it will be the duty of developer-owner (the individual to whom reimbursement is to be made) to keep the Utility Services Department Director advised as to the correct mailing address, etc. for reimbursement.

The town retains and reserves the right (and ability) to enter into separate special agreements to cover unique situations where a standard repayment agreement is not applicable.

Section 16-7-8 Financing-Generally

The following provisions related to financing the extension of water and sewer system mains may be applicable to mains to serve individuals, unplatted areas and subdivisions:

(1) When an existing main will serve the water or sewer system being created for the subdivision or platted area, any participating charges must be deposited with the town prior to start of construction for the proposed development.

(2) Where an existing main is to be tapped, a participating charge based upon that portion of the property to be developed shall be placed on deposit with the town prior to tapping the existing main.

(3) No person shall be permitted to extend service from his tap to adjacent property owned by someone else or to property for which a participating charge has not been advanced and deposited with the town without written approval of the town.

(4) The town will establish a separate account for each reimbursement agreement for the collection of participating charges and reimbursements to the party who financed the installation of the main. In no event will the sums reimbursed exceed the contract price for the installation of the extension.

(5) Should the property or any portion thereof not be served by the main or mains installed under the agreement, the developer-owner will not be reimbursed for the proportionate share of the main cost otherwise due from the property.

Section 16-7-9 Reimbursement extension cost

The extension costs for which a developer-owner may seek an extension reimbursement agreement are the actual construction costs (only those costs that do not exceed the contract price approved by the town), less any oversizing participation paid by the town and the 10 percent administrative fee provided for in section 16-7-17, associated with installation of the extension. In the event that the agreed-upon construction costs increase, the repayment agreement may be amended, in the sole discretion of the town, upon the approval of the additional construction costs by the town.

The engineering costs for the preparation of plans, specifications, and staking of the extension incurred by the developer-owner may be included in the agreed construction costs. The developer-owner is not entitled to reimbursement for the costs of installing water and sewer lines within the boundary of the project.

Section 16-7-10 Bidding for installation of extension lines; approval of costs

The selection of a contractor for the installation of the extension shall be made by competitive bidding. The bids shall be opened at a location designated by the town on a pre-determined date agreeable to the developer-owner and the town. The developer-owner shall submit to the town a

notarized copy of all bids received, a copy of the bid tabulation and any information concerning the projected successful bidder. When awarding the construction work, the developer-owner shall obtain separate bid prices from their contractor for each item of work identified as eligible for reimbursement. The Utility Services Department Director and Town Engineer, or designee, has the authority to adjust any process determined not reasonably justified. Both the town and the developer-owner shall have the right to reject any and all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the town. No contract shall be awarded for installation of an extension prior to town approval of the successful bidder.

After the contractor has been selected to perform the extension installation work, the developer-owner shall submit the total proposed construction costs for the installation plus the projected engineering costs to the town.

The developer-owner's engineer shall prepare and submit to the Utility Services Department Director and Town Engineer, or designee, for review and approval all construction items to be included in the cost. No construction may commence prior to the town's approval of these costs. The final detailed plans and specifications for the extension must be approved by the Town Engineer prior to construction.

Section 16-7-11 Allocation of reimbursable cost-water extension

The reimbursable costs for an extension of water line shall be allocated, on a footage basis, to all property, including the developer-owner's; adjacent to, and which may be served by, the water line extension.

The developer-owner's property shall be allocated its proportionate share of the installation costs of the extension water line. The developer-owner shall not be entitled to reimbursement for this portion of the reimbursable extension costs.

The front footage for each parcel of property shall be established by the town. The Utility Services Department Director shall have sole and exclusive control of the connections to any proposed extension.

Section 16-7-12 Allocation of reimbursable cost-sewer extension

The reimbursable costs for an extension of sewer line shall be allocated, on an acreage service basis, to all property, including the developer-owner's, which may be served by the sewer line extension.

The developer-owner's property shall be allocated its proportionate share of the installation costs of the extension sewer line. The developer-owner shall not be entitled to reimbursement for this portion of the reimbursable extension costs.

The acreage service area for each parcel of property shall be established by the town. The maximum service area to be serviced by the proposed extension and its ultimate branches and laterals shall be determined by the Utility Services Department Director, or designee, based on sewer capacity requirements. The Utility Services Department Director shall have sole and exclusive control of the connections to any proposed extension.

Section 16-7-13 Collection of allocated reimbursement costs; payment

The allocated reimbursement extension costs shall be collected by the town at the time the subsequent user of the property to which extension costs have been allocated applies to the town

for a permit to connect to the existing extension. The allocated reimbursement extension costs must be paid prior to issuance of a connection permit or actual connection to the extension.

All funds collected pursuant to the extension reimbursement agreement, less the town's administrative fee as provided in this article, shall be placed into a separate account for the collection and payment of allocated reimbursement extension costs.

Payment of collected reimbursement extension costs shall be made to the developer-owner on an annual basis each thirtieth day of June.

Section 16-7-14 Service from other source; unassessed parcels; limitation

If any parcel or property to which reimbursement extension costs have been allocated receives water or sewer service by means other than the extension water or sewer line covered by the agreement, the reimbursement extension costs allocated to that parcel will not be collected and the town shall not be responsible to the developer-owner for that amount.

If any parcel of property, which has not previously been allocated a pro rata share of the reimbursement extension costs, applies to the town for a permit to connect to the extension, the town shall assess a portion of the reimbursement extension cost, on a front footage or acreage service basis, to that parcel and collect the amount prior to issuance of the connection permit or actual connection to the extension.

In no event shall the developer-owner receive an amount which exceeds the total reimbursement extension costs less the developer-owner's allocated share of those costs.

Section 16-7-15 Dedication of extension line

The extension reimbursement agreement shall provide that the extension water or sewer lines covered by the agreement shall become the property of the town upon completion of installation and acceptance by the town.

Section 16-7-16 Expiration of agreement

Agreements must be executed prior to construction of the extension. The term of the extension reimbursement agreement shall be set in the agreement. At the expiration of the term, the agreements shall automatically terminate and developer-owner shall have no right to reimbursement for any connection to the extension after the expiration date. Any balances remaining unpaid upon termination shall be canceled, and the town shall be fully discharged from any further obligation under the agreement. No interest shall accrue on any costs advanced by a developer-owner. There will be no reimbursements for participating charges collected prior to receipt of the developer-owner's written request to enter an agreement.

Section 16-7-17 Administration fee

The town fee for administration of the agreement and collection of the allocated reimbursement costs shall be 10 percent of the allocated reimbursement costs. The town will deduct a 10 percent administrative fee from each payment received from subsequent users prior to disbursing any funds to the initial developer-owner. The initial developer-owner pays the administration fee.

Section 16-7-18 Projected allocation

The extension reimbursement agreement shall include a diagram approved by the town designating the properties which are expected to be served by the extension water or sewer line, the per front footage (water) and per acreage service (sewer) factors to be used for allocation of

the reimbursement costs and the front footage (water) and acreage (sewer) assigned to each parcel for purposes of allocating the reimbursement costs.

Section 16-7-19 Assignability of agreement

The agreement shall set forth the name of the person to whom payment of the reimbursement amount shall be made. The developer-owner may assign to one party only, with the consent of the town, the right to receive payments under the extension reimbursement agreement if the assignee purchases or acquires the entire interest of the original property owner who entered into the repayment agreement and the assignment is in accordance with the specific terms of the extension reimbursement agreement. No other assignment of any portion of the extension reimbursement agreement may be made by the developer-owner or his assignee. Such an assignment shall not relieve the developer-owner from his duties and obligations under the reimbursement agreement.

ARTICLE 16-8 OFF-SITE IMPROVEMENTS

Section 16-8-1 Definitions

Section 16-8-2 Approval of plans prerequisite to issuance of building permit

Section 16-8-3 Bond or deposit

Section 16-8-4 Temporary waivers

Section 16-8-1 Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the text clearly indicates otherwise:

Off-site improvements means those required improvements in the public right-of-way and shall include, but not be limited to, asphaltic concrete surfacing, aggregate base, curb and gutter, valley gutters, concrete sidewalks, water mains, fire hydrants, sanitary sewers, storm drains and irrigation facilities when required.

Redeveloped means major additions or major alterations to existing structures, and shall include new structures on parcels of land having existing structures situated thereon.

Section 16-8-2 Approval of plans prerequisite to issuance of building permit

No building permit shall be issued by the town until plans are submitted indicating that off-site improvements are planned for the project in conformance with town standards and requirements. These off-site improvement plans shall be submitted with all other building plans and applications. Building plans shall be approved in writing by the development department. Off-site improvement plans shall be approved in writing by the Utility Services Department and Development Services Department.

Section 16-8-3 Bond or deposit

The Development Services Department shall deny final approval and certificate of occupancy of any building until the required off-site improvements are completed and have been inspected and approved by the appropriate town department, unless performance of off-site improvements is guaranteed by a performance bond, approved by the town attorney and the Utility Services Department Director, or a cash deposit with the finance and technology department for a sum which shall be in an amount fixed by the town.

The performance bond or cash deposit shall be returned to the depositor upon the approval of the town subsequent to the completion of the off-site improvements. It is further provided that the performance bond or cash deposit, or a portion thereof, the amount of such portion to be

determined by the town, may be retained by the town as compensation for performing the work required in the approved off-site improvement plans; provided, that the permittee shall have failed, or refused, to install the work within 30 days after receipt of a notice in writing by the town.

Section 16-8-4 Temporary waivers

If any of the off-site improvements cause a hardship on the town, or it is not practical to construct the improvements because of the pending formation of an improvement district, the town may temporarily suspend the off-site improvements upon the property owners entering a contract with the town to accept an improvement district assessment or to construct the off-site improvements within 30 days after receipt of a notice to proceed issued by the town.

ARTICLE 16-9 WATER AND WASTEWATER CAPACITY CHARGES OFF-SITE IMPROVEMENTS

Section 16-9-1 Setting and Amending Capacity Charges

Section 16-9-2 Water Capacity and Charges

Section 16-9-3 Wastewater Capacity Charges

Section 16-9-1 Setting and Amending Capacity Charges

The Council may by ordinance or resolution set and amend any capacity charge for water and or wastewater, subject to all applicable notice and hearing requirements. Applicants should consult with the Utility Services Department for current charges.

Section 16-9-2 Water Capacity Charge

All Development Types (per meter)

Meter (inches) and Type	Capacity Ratio	Proposed Water Capacity Charges
0.75 displacement	1.00	$ 4,014
1.00 displacement	1.70	$ 6,806
1.50 displacement	3.30	$ 13,189
2.00 displacement	5.30	$ 21,166
3.00 displacement	10.70	$ 42,707
3.00 displacement	12.00	$ 47,892
4.00 displacement	17.00	$ 67,837
4.00 displacement	20.50	$ 81,798

Section 16-9-3 Wastewater Capacity Charge

All Development Types (per meter)

Meter (inches) and Type	Capacity Ratio	Proposed Water Capacity Charges
0.75 displacement	1.00	$ 5,082
1.00 displacement	1.70	$ 8,629
1.50 displacement	3.30	$ 16,738
2.00 displacement	5.30	$ 26,875
3.00 displacement	10.70	$ 54,243

3.00 displacement	12.00	$ 60,831
4.00 displacement	17.00	$ 86,172
4.00 displacement	20.50	$ 103,910

CHAPTER 17 CABLE COMMUNICATIONS[1]

ARTICLE 17-1 TITLE

This chapter shall be entitled the Town of Queen Creek Cable Communications Chapter.

ARTICLE 17-2 PURPOSE

It is the purpose of this chapter to provide for the regulation and control of cable television systems operating within the town by the council, in the public interest; to authorize the council to grant one or more non-exclusive licenses to operate cable communications systems; to provide for the use of town streets, public utility easements, public rights of way and public places by licensee and compensation to the town for use of same; and to require that the provisions of this chapter be applicable to all licenses granted by the council. It is the further purpose and intent of this chapter to facilitate the provision of high quality cable television service to the citizens of the town while minimizing disruptions of the public domain for system installation and maintenance.

ARTICLE 17-3 DEFINITIONS

For purposes of this chapter, the following words, abbreviations and their derivations shall have the meanings given herein. Words not defined are given the meaning in Section 602 of the Cable Act, 47 U.S.C. Subsection 522, and, if none, their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "must" or "shall" are mandatory and the word "may" is permissive.

"Access channel" shall mean one or more channels dedicated in whole or in part for local non-commercial programming which is set aside for educational use or governmental use without a charge by the licensee for channel usage and which is not originated by a 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" means any person that applies for a license.

"Application" means a proposal to construct and/or 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.

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[1]Ordinance 156-99

"Basic cable service" or "basic service" means any service tier which includes the retransmission of local television broadcast signals.

"Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 et seq., as amended.

"Cablecasting" means a non-broadcast signal that originates within the facilities of the cable communications system.

"Cable service"**,** unless defined in the license agreement, means:

1. one way transmission to subscribers of:

    a. video programming, or

    b. other programming service, and

2. subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"Cable television system" or "cable system" unless defined in the license agreement, means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the town. Such term does not include:

1. Facility that serves only to retransmit the television signals of one or more television broadcast stations;

2. A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility uses or crosses (above or through) any public right-of-way;

3. A facility of a common carrier that is subject, in whole or part, to the provision of Title II of the Communications Act of 1934, 47 U.S.C. Subsection 201 et seq., except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers or

4. Any facility of any electric utility used solely for operating its electric utility systems. Furthermore, if there is a connection of any such exempt system to a licensed system such exemption shall cease.

"Change of service" means all requests by existing subscribers for modification to their cable service, such as additions or deletions of premium services, additional outlets, remote controls FM service, etc. Such terms shall not include initial installation of basic cable service, total disconnection of basic cable service or service calls.

"Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and is capable of delivering a television channel.

"Complaint" is 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 licensee or applicant" means 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.

"Converter" is an electronic tuning device which converts transmitted signals to a frequency which permits their reception on an ordinary television set.

"Council" means the town Council of the Town of Queen Creek, Arizona, or such representative person or entity as may be designated initially or at some future date to act on cable television matters.

"Density" means the number of potential subscriber households per mile of cable system. Dwelling units shall be counted when they are within 250 feet of any portion of the cable distribution system including trunk and feeder cable lines.

"Dwelling unit" means 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. Included in this definition, but not limited to are: all single family homes, each apartment unit, each condominium unit, patio homes, guest quarters and similar type structures.

"FCC" means the Federal Communications Commission or successor agency.

"Gross revenues"**,** 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 one and one-half percent 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:

1. Revenue from all charges for services provided to subscribers;

2. Revenue for all charges for the insertion of commercial advertising upon the cable system;

3. Revenue from all charges for the leased use of studios;

4. Revenue from all charges for the installation, removal, connection and reinstatement of equipment necessary for a subscriber to receive cable service;

5. Revenue from the sale, exchange, use or cablecast of any programming developed for community use or institutional users.

6. Revenue from all charges for the use of or lease of leased access channels or band width.

7. Revenue from the production or transmission over the cable system of video programming by licensee including programming produced by its mobile facilities.
8. Any other income derived from the cable system.

Gross revenues 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.

Gross revenues 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 paragraph 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.

When a licensee (or an affiliate) holds one or more other cable television licenses in Maricopa County, Arizona and/or Pinal County, Arizona and receives and allocates gross revenues from paragraphs 2, 6 and 7 under this definition, then gross revenues derived from paragraphs 2, 6 and 7 under this definition, 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 Maricopa County, Arizona and/or Pinal County, Arizona, in which licensee (or an affiliate) holds a cable license. If a licensee does not allocate its gross revenues derived from paragraphs 2, 6 and 7 under this definition 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.

"Interconnect" or "interconnect of facilities" is the connection of one or more channels of licensee's system with other cable systems by direct cable, microwave link, satellite or other appropriate methods.

"Leased channel" or "leased access channel" means any channel designated in accordance with Section 612 of the Cable Act, 47 U.S.C. Subsection 532, for commercial use by persons unaffiliated with the licensee.

"License" means the non-exclusive right and authority, granted by the council, as described in this chapter, to construct, maintain and operate a cable television system through use of the public streets or public places in the town. This term does not include any license or permit that may be required by the chapter or other laws, ordinances or regulations of the council for the privilege of transacting and carrying on a business within the town or for disturbing the surface of any street or public thoroughfare.

"Licensee" means the person granted a license agreement by the council and any lawful successor, transferee or assignee of said person.

"License agreement" means a contract entered into in accordance with the provisions of this chapter between the council and a licensee that sets forth the terms and conditions under which the license will be exercised.

"Malfunction" means an equipment or facility failure that results in the loss of a viewable signal on one or more channels. A "major malfunction" has occurred when five or more channels are affected.

"Outage" means 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 one hundred twenty minute period.

"Overbuild" means a cable system constructed to serve subscribers currently served by an existing cable system, including those parts of an existing system that will be constructed within six months pursuant to plans filed with the council.

"PEG access channel" or "PEG channel" means any channel set aside for educational use or governmental use without a charge by the licensee for channel usage.

"Person" means any individual, corporation, joint venture, association, syndicate, trust, partnership or any other business entity who holds or applies for a license from the council.

"Property of licensee" means all property owned, installed or used within the town by a licensee in the conduct of a cable television system business.

"School" means any public educational institution, which is accredited by a nationally recognized institution, including primary and secondary schools, colleges and universities.

"Service call" shall result when service problems occur relating to:

1. Fewer than three complaints regarding total loss of signal on all channels within within one linear mile during any one hundred twenty minutes,

2. A degraded signal or picture on one or more channels, or

3. Property damage by licensee employees or authorized contractors.

"Standard drop" means that cable connection which requires no more than a one hundred and twenty-five foot drop measured from the nearest point of subscribers 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.

"Street" means the surface, the air space above the surface and the area below the surface of any public street, road, highway, path, sidewalk, alley, court, easement or other public right-of-way or public place now or hereafter held by the town, County of Maricopa**,** County of Pinal or State of Arizona for the purpose of public travel or public utilities.

"Subscriber" means any individual or entity legally receiving, for any purpose, cable services of the licensee's cable television system including, but not limited to, the basic service, redistribution of television broadcast signals, radio signals, licensee's original cablecasting, community programming, government and education access channels and other services such as leased channels, data and facsimile distribution, premium and pay per view channels and police, fire and similar public service communication.

"Town" means the Town of Queen Creek, a municipal corporation of the State of Arizona, in its present boundaries, and its future boundaries as increased or decreased by law.

"Town manager" means the town Manager of Queen Creek, Arizona, or his designee, as will be communicated to the licensee in writing, if and when such designation occurs.

"Two-way capability" means 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.

ARTICLE 17-4 AUTHORITY TO GRANT LICENSE, LICENSE REQUIRED, NON-EXCLUSIVE LICENSE

A. Pursuant to A.R.S. § 9-505, as amended, the council has the authority to issue non-exclusive licenses to construct, install, maintain and operate cable communication systems within the town, and to regulate those cable operations. The council's authority is also based in common law pursuant to the town's ownership of the fee simple title to the streets of the town as well as its legal interest in easements and licenses granted to it by property owners for the purposes of municipal use.

B. No provision of this chapter shall be deemed or construed to require the granting of a license.

C. No person shall construct, install or maintain a cable system within any street in the town, or within any other public property of the town, unless a license agreement authorizing such use of said streets or property is in full force and effect.

D. Any person providing cable services or maintaining a cable system in the town pursuant to a license granted by Maricopa County, Arizona and/or Pinal County Arizona, prior to the incorporation of the town, may continue to provide or maintain such system until such time as the town has granted its first license. If the person providing service or maintaining a system does not apply for and receive one of the first town licenses, then the person shall

have one hundred twenty days from the effective date of the first licenses to provide for the abandonment or removal of the system.

E. Any license issued by the council shall be non-exclusive, and the council specifically reserves the right to grant such additional licenses for cable systems as the council deems appropriate.

ARTICLE 17-5 APPLICATION PROCEDURES

A. Any person desiring to construct, install, maintain or operate a cable communication system within the town shall submit an application to the council. This application shall be filed with the town clerk, and must conform to Article 17-9 of this chapter and must address, at a minimum, the following information:

1. The name, title, address, phone numbers and ownership interests for all owners holding five percent or more of the applying entity, including key contact and management personnel.

2. The proposed construction or service area, construction schedule, likely time line, and construction standards, practices and procedures.

3. The proposed service levels, including channel capacity, program selections, rates, customer service standards, problem resolution process, customer contact locations.

4. Other pertinent information the applicant deems appropriate and helpful to the town in assessing the credibility and worthiness of the proposal.

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. The council reserves the right to issue a request for proposals at any time.

C. Applications for consent to transfer a license or an interest in a license must conform to the requirements of Articles 17-9 and 17-12 of this chapter, while applications for renewal must conform to Articles 17-9 and 17-11.

D. An application for modification of a license agreement must conform to Article 17-9 of this chapter and 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 as to whether the modification sought is pursuant to 47 U.S.C. Section 545, and, if so, a demonstration that the requested modification meets the legal standards of said section; and

4. Any other information necessary for the council to make a determination.

E. To be acceptable for filing, an application must be submitted with any required filing fee, be properly executed on the forms prescribed by the council, and contain the information required by this chapter, and meet the requirements of any applicable request for proposals.

ARTICLE 17-6 STANDARDS FOR GRANTING OR DENYING LICENSE APPLICATIONS

A. All applications received that are acceptable for filing shall be placed in a public file with the town clerk.

B. The council shall give full consideration to each application. The following factors may be deemed appropriate and shall be considered:

1. The financial qualifications of the applicant and its ability to construct and operate the proposed system.

2. The need for and quality of the service proposed, including rates to subscribers, whether or not rates are to be regulated.

3. The technical, legal and character qualifications of the applicant, including applicant's willingness to abide by the limitations of this chapter.

4. Technical and performance adequacy of the proposed system design, plant and equipment, including any specific knowledge or experience the council may have with the applicant.

5. Where an applicant proposes to overbuild an existing cable system, the economic and technical feasibility of multiple cable systems, the impact on the existing licensee's system and the public interest, if the application were to be granted.

6. All other factors which may affect the public interest.

C. Thereafter, the council shall make a determination whether to approve or disapprove each application.

ARTICLE 17-7 LICENSE AGREEMENT

A. Upon the approval of an application by the council, the applicant shall negotiate and execute a license agreement within sixty days. If the council and the grantee fail to agree on the terms of a license agreement within the sixty days of the date that the council's action approving the application, the approval shall expire without further action by the council. This time limit may be extended by the council for good cause. The license agreement shall incorporate all terms and provisions of this chapter wherein a requirement is placed upon the licensee, either expressed or implied by this chapter. The licensee shall expressly and specifically agree to accept the terms of and be bound by the terms of this chapter.

B. A license agreement shall have the following characteristics:

1. It authorizes use of the public rights-of-way for installing cables, 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 cable, wires, lines or any other equipment or facilities upon property without owner consent [except for compatible easements or rights-of-way pursuant to 47 U.S.C. Section 541(a)(2)], 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 or 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.
2. It is subject to the paramount right of use of the public rights-of-way by the council and the public for public purposes. The council reserves the right to authorize use of public rights-of-way to other persons as it determines appropriate.

3. It is nonexclusive and will not expressly or implicitly preclude the issuance of other licenses to operate cable systems within the town.

4. It conveys no property right to the licensee or right to renewal other than as may be required by state or federal law.

5. It constitutes a contract between the licensee and the council once it is 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.

6. The term of the license agreement shall not exceed fifteen years commencing on its effective date.

7. A licensee shall execute a hold harmless agreement as part of the license agreement which shall set forth the obligation of the licensee over and above the insurance requirements contained in the license and this chapter.

8. A licensee shall be subject to all laws, rules and regulations of the State of Arizona and the United States Government.

9. 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, nor pose additional contractual burdens on the licensee.

10. All notices and communications from a licensee to the council pursuant to this chapter or a license agreement shall be sent to the town manager unless the licensee is otherwise directed.

11. Insofar as it is not inconsistent with or otherwise preempted by federal or state regulations, the license agreement shall grant the right and privilege to the licensee to provide non-cable communications services. Insofar as it is not inconsistent with or otherwise preempted by federal or state regulations, the council shall retain all authority to regulate non-cable telecommunication services to the extent necessary to protect the public interest and to ensure compliance with all provisions of this chapter.

ARTICLE 17-8 OPERATING REQUIREMENTS FOR CABLE COMMUNICATIONS SYSTEMS

A licensee shall conform to the following minimum standards relative to the construction, operation and maintenance of a cable communications system in the town. It is not the intent of this article to prevent any licensee from providing more than the required minimum to meet the standards listed below.

A. Rights of Individuals, Subscribers and Users.

1. A cable system shall be operated in a manner consistent with the principles of fairness and equal accessibility of facilities, channels, studios and other services to all residents and other entities having a legitimate use of the system. A licensee shall not discriminate in terms of rates, terms of service or extension of service on the basis of age, race, creed, sex, religion, national origin or marital status. Nor shall a licensee fail to extend service to any part of the town on the basis of the income of the residents. A licensee shall maintain a business office open during normal business hours with listed local or toll-free telephone numbers to allow reasonable access by subscribers and members of the public. Unless a waiver is granted by the council, said office shall be located within ten miles of the town's corporate limits. When the office is closed, an answering machine or similar device, capable of receiving service complaints and inquiries must be employed.

2. Licensee shall maintain a written record listing date of all complaints, identifying the subscriber or citizen, describing the nature of the complaint and when and what action has been taken by the licensee, if any, in response thereto; such record shall be kept at licensee's office and shall be available for inspection during regular business hours without further notice of demand of the town manager. A summary of such records must be retained for not less than one year. The licensee shall notify each subscriber at the time of initial subscription to service of the procedure to reporting and resolving complaints.

3. A licensee shall establish procedures for the investigation and resolution of all complaints including, but not limited to, those regarding the quality of service and equipment malfunction. A copy of such procedures shall be provided to the council upon request.

4. A licensee must provide each subscriber at the time cable service is installed, the following:

a. written instructions for placing a service call, filing a complaint or requesting an adjustment, including the phone number and address of licensee's office;

b. the telephone number of the town office responsible for administration of the cable license;

c. a schedule of rates and charges for all available services;

d. copies of the service contract, including disconnect and reconnect procedures and charges;

e. a subscriber handbook and upon request any other written policies applicable to subscribers.

5. A licensee shall establish and conform to the following policy regarding refunds to subscribers and users:

a. If the licensee collects a deposit or advance charge on any service or equipment requested by a subscriber or user, the licensee shall provide such service or equipment within thirty days of the collection of the deposit or charge or it shall refund such deposit or charge within five days thereafter upon request of the subscriber. The subscriber must be advised of this right of refund at the time the order is placed.

b. If any subscriber or user terminates any monthly service during a period of time for which said subscriber or user has made an annual or other payment in advance, the appropriate pro rata portion of said payment shall be refunded by the licensee.

6. The following requirements shall apply to disconnections:

a. There shall be no charge for total disconnection of cable service unless such charge was disclosed at the time the subscriber ordered service. All cable communications equipment shall be removed within a reasonable time from a subscriber's property at the subscriber's request, such time not to exceed thirty days from the date of the request.

b. If any subscriber fails to pay a properly due monthly subscriber's fee or other charge, the licensee may disconnect the subscriber's service outlet; provided, however, that such disconnection shall not be effected until thirty days after the due date of the charges and shall include a prior written notice to the subscriber of the intent to disconnect. After disconnection, upon payment in full of all proper charges or fees, including the payment of any reconnection charge, the licensee shall promptly reinstate the service.

7. A licensee may interrupt service on the cable system only for good cause and for the shortest time possible and, except in emergency situations, only after prior notice to subscribers and the council of anticipated interruption. No prior notice

shall be required for the performance of system maintenance work requiring a maximum of one hour between the hours of six a.m. and twelve midnight, and four hours between the hours of twelve midnight and six a.m.

8. A licensee shall at all times comply with the subscriber privacy provisions of 47 U.S.C. Section 551.

9. No equipment shall be installed by the licensee for subscriber service without first securing a service request from the owner or resident of any private property involved, except in public utility easements.

10. A licensee shall not originate or knowingly permit subliminal transmission at any time for any purpose whatsoever.

11. A licensee shall provide a notice to each subscriber no less than thirty days prior to any change in the schedule of rates and charges for all available services.

12. A licensee shall provide leased access channels as required under 47 U.S.C. Section 532. In the event that said federal provisions should cease to apply, the council reserves the right to promulgate other leased access requirements which shall apply, not to exceed those requirements specified in 47 U.S.C. Section 532.

13. A licensee shall strictly adhere to the equal employment opportunity requirements of the FCC, 47 U.S.C. Section 554, state statutes and local regulations, and as the same may be amended from time to time.

B. Cable System Construction Timetable.

1. A cable system shall be constructed in accordance with the provision of the license agreement.

2. It is the policy of the council to require construction of a cable system designed to serve subscribers in an area licensed by the council as rapidly and expeditiously as possible. The licensee shall immediately upon granting of the license agreement diligently pursue and obtain all necessary permits from the appropriate governmental agencies, utility companies and others as necessary to comply with the provision of this chapter and other federal, state and town laws, codes and resolutions. However, no construction shall begin until the notification requirements set forth elsewhere in this chapter are satisfied.

3. A cable system shall be constructed pursuant to a construction timetable specified in the license agreement.

4. Any delay beyond the terms of the timetable specified in the license agreement will be considered a violation of the terms of this chapter and the license agreement. Unless the licensee can establish that the delay was due to factors beyond its control, the licensee may be considered in default of the license agreement and the town manager may take whatever action the town manager is entitled to under this chapter and the license agreement.

5. The licensee shall not be considered in default of the applicable construction schedule if the council approves a modification of the schedule change in advance. In submitting a request for a construction schedule modification, the licensee must fully explain the reasons for the delay, in writing. The delay must be disapproved by the council if it is not reasonably justified, would have unreasonably discriminating results or would unduly delay service to an area. Such a modification request shall be considered granted unless the licensee is notified by the council to the contrary in writing within forty-five days of the date on which the request was filed.

6. The council may require a licensee to report on construction progress and provide information showing specifically whether the construction schedule is being met and the reasons for the delay. The town manager shall determine the format to be used for the report and the frequency of reporting.

7. Where appropriate and reasonable, a licensee shall schedule construction activities to coordinate with any town construction on streets so as to avoid unnecessary inconvenience to the public.

C. Line Extension Policy.

Unless the license agreement provides otherwise, a licensee shall be required to extend its cable system pursuant to the following requirements:

1. Upon reasonable request for service by any person located within any area of the town that meets density requirements of paragraph 2 of this subsection, the licensee shall, within ninety days, furnish the requested service to such person, unless prevented from providing said service due to factors outside licensee's control, such as permit restrictions, private easement considerations, etc. If such service has not been implemented within one hundred twenty days of said request, the council may impose liquidated damages for each day thereafter.

2. The licensee must extend and make cable television service available to every unserved dwelling unit within any area of the town reaching the minimum density of at least thirty-five dwelling units per mile of plant as measured from licensee's nearest activated trunk or feeder line, whether the existing plant is aerial or underground, except that the licensee shall not be required to install cable where another authorized licensee has already done so. Licensee shall complete line extensions to an area reaching a density of at least five homes within 1,056 feet of existing active cable plant, or where an area has more than seven homes, at least one home per 151 street feet including the distance to existing active cable plant. Upon request, this density requirement may be modified by the council for a specific licensee, provided said licensee demonstrates that it would be commercially impracticable if licensee's compliance with said requirement would create a significant adverse impact on the capital costs of licensee's Queen Creek cable system.

3. The licensee shall prevent unnecessary damage to streets and property by installing cables or conduits underground in new single family subdivisions at the same time and in the same trench as telephone, electric or similar services are installed. Given reasonable notice, the licensee shall install underground cable or

conduit in all new subdivisions of five or more dwelling units within the service area at the same time and in the same trench as telephone, electric or similar services are installed. Cable need not be installed or activated until the new subdivision meets the criteria established for line extensions.

4. The licensee must extend and make cable television service available to any resident requesting connection within the licensee's authorized service area at the regular installation charge if the connection to the resident would require no more than a one hundred twenty-five foot drop line, and provided that paragraph 2 of this subsection is met.

5. With respect to requests for connection requiring a drop line in excess of one hundred twenty-five feet, the licensee must extend service to such residents at a one time charge not to exceed the actual costs incurred by the licensee for the distance exceeding one hundred twenty-five feet.

D. Construction and Technical Standards.

The following general requirements, which are not to be interpreted as imposing standards in excess of FCC imposed limits, apply to all licensees.

1. In those areas and portions of the service area where the transmission and distribution facilities of the telephone company and the electric company are underground or later placed underground, the licensee shall likewise install its transmission facilities underground.

2. In areas where facilities do not have to be underground, a licensee shall not erect any new poles along any street or public way of the town except as may be reasonably required or necessary to fill small gaps in the existing aerial utility systems and only then with the advance approval of the council.

3. All television signals transmitted on a cable system must include any closed captioning information for the hearing impaired. Antennas, supporting structures and outside plant used in the system must be designed to comply with the recommendations of the Electronics Industries Association and applicable federal and local regulations on tower structures and outside plant.

4. The licensee may perform at its expense any proof of performance tests designed to demonstrate compliance with the requirements of this chapter, the license agreement and the FCC. The town manager may require periodic proof of performance tests to be performed at the expense of the licensee. Upon request, the licensee must provide the test results promptly to the town manager.

5. The licensee may advise the town manager when a proof of performance test is scheduled so that the town manager may have an observer present.

6. A licensee may not design, install or operate its facilities in a manner that will interfere with the signals of any broadcast station, the electrical system located in any building, the cable system of another licensee, or individual or master antennas used for receiving television or other broadcast signals.

E. Maintenance Specifications.

1. The licensee shall construct, install and maintain its cable system in an orderly and workmanlike manner. The safety of the general public, the licensee's employees, the employees of the utility companies and all nearby property owners shall be a primary concern.

2. All cables are to be installed, to the maximum extent possible, parallel with electric and telephone distribution facilities. Multiple-cable configurations shall be arranged in parallel and bundled to the maximum extent possible.

3. As between licensee and the town, the licensee shall be solely and completely responsible for the actions taken by any contractor or other agent employed to construct or install the licensee's facilities on streets as well as on public or private property.

4. The licensee shall give prior written notice, as set forth later in this article, of its intent to place underground facilities. Failure to provide such notice may subject a licensee to liquidated damages pursuant to Article 17-9 of this chapter or other enforcement sanctions.

5. In addition, the licensee shall comply with all other town, state and federal laws and regulations which may be applicable to its operations.

6. A licensee shall have available at all hours personnel capable of responding to emergency conditions requiring immediate repair to any facility owned by the state, county, town or the gas, electric and telephone utilities, as well as pipeline companies or similar industries. The licensee shall respond to normal requests for location of its facilities within forty-eight hours. The licensee shall be a member of the One Call Notification Center, or comply with state underground law, for its service area.

7. In the event that licensee property, or the facilities and equipment of unauthorized cable communication providers, has been installed in a street or other dedicated public right-of-way without complying with the requirements of this chapter, or the license has been terminated, revoked or expired, or the use of any licensee property is discontinued for any reason for a continuous period of three months, licensee or any unauthorized cable communication provider, shall at its sole expense on the demand of the council remove promptly from the street all licensee or unauthorized cable communication provider property other than that which the council may permit to be abandoned in place. Upon such removal of subject property, licensee or unauthorized cable communication provider shall promptly restore the street or other public places from which the subject property was removed to a condition as near as possible to its prior condition. Subject property no longer in service may be left in place with the approval of and in a manner prescribed by the council. Upon abandonment of said property in place, licensee or unauthorized cable communication provider shall deliver to the council an instrument transferring ownership of the subject abandoned property to the town. Any cost arising from compliance with this provision shall be borne by the licensee or unauthorized cable communication provider.

F. Use of Streets.

1. A licensee must utilize, with the owner's permission, existing poles, conduits or such other facilities whenever possible. Underground street, sidewalk and driveway crossings not using existing conduits shall be bored unless specific council approval is received. A licensee may install its own poles only when approved by the council and subject to whatever reasonable terms the council requires.

2. All transmission lines and other equipment must be installed and located to minimize interference with the rights and reasonable convenience of public and private property owners. The council reserves the right to issue such reasonable rules and regulations concerning the installation and maintenance of cable systems in the public rights-of-way, as may be consistent with this chapter, state and federal law.

3. The licensee shall have at all times up-to-date route maps showing trunk and distribution lines. Licensee shall make all such maps available for review by the appropriate town personnel.

4. Suitable safety devices and practices as required by town, state and federal laws, ordinances, regulations and permits must be used during construction and maintenance of a cable system.

5. A licensee must remove, replace or modify at its own expense, any of its facilities within any public right-of-way when required to do so by the town manager to allow the town to change, maintain, repair, improve or eliminate a public thoroughfare. Nothing in this article shall prevent licensee from seeking and obtaining reimbursement from sources other than the town.

6. A licensee must obtain any required permits before doing any excavation or causing disturbance to public thoroughfares or private property as a result of its construction or operations and must restore to their former condition such private property and public thoroughfares, the latter in a manner consistent with all applicable rules, regulations, resolutions or other town manager requirements relative to construction, repair or maintenance in public rights-of-way. If such restoration is not satisfactorily performed within a reasonable time in the opinion of the town manager, the town manager may, after prior notice to licensee, cause the repairs to be made at the expense of the licensee. The town manager may inspect ongoing construction and require a licensee to halt construction where the town manager finds the construction to be in non-compliance with the requirements of this chapter, the license agreement or a permit.

7. Prior to commencement of underground construction a licensee must have complied with the following requirements:

   a. Have received a permit from the council for construction on public property or rights-of-way;

b. Have requested and received clearance from utilities in the area of construction;

c. Where new construction will be on private property or in public rights-of-way adjoining private property, have provided no less than seven days written notice by mail or hand delivered to all such property occupants. The notice shall include the name, address and toll-free phone number that the affected person may call for more information or to lodge a complaint.

8. 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 such move upon not less than seventy-two hours advance notice. The direct expense of such temporary move must be paid by the permit holder, and the licensee may require payment in advance.

G. System Services and Capability.

1. The following minimum requirements for facilities and services apply to licenses. The council may require that a licensee exceed these minimum requirements. The town and all licensees realize that rapidly changing technological advances and related costs of same may allow for significant enhancements to the services offered during the term of any license agreement. License agreements may incorporate provisions for such enhancements as they become reasonably available to similar sized systems.

a. Except as provided in the license agreement, a cable system must have a minimum capacity of fifty-four video channels available for immediate or potential use. Two-way capability may be designed into the system. Upon request, this minimum channel capacity may be modified by the council for a specific licensee, provided said licensee demonstrates that it would be commercially impracticable to comply with said requirement. A licensee shall have the burden of demonstrating, by clear and convincing evidence, that compliance with the minimum channel capacity would be commercially impracticable for its Queen Creek cable system.

b. Standard installation and basic service to public buildings may be required without charge as set forth in the license agreement. Licensee may be required to make available, one service outlet to a conveniently accessible point in each municipal building and any other public building designated by the town manager. The installation charge to each occupant, if any, would not exceed licensee's direct cost (time and material). There may also be a minimum monthly service charge at the above locations.

c. A licensee may design its system to allow the council to interrupt audio portions of the cable service in an emergency to deliver information to subscribers.

d. A licensee must provide standby power for the head end so as to be able to operate some channels during a power outage for a minimum of six hours or as provided for in the license agreement.

2. The council may waive minimum requirements for licenses where the applicant demonstrates that such waiver is in the public interest.

3. The following requirements apply to access and community programming channels:

a. Applications for a license shall include proposals for the provision of educational and governmental access channel sufficient to meet community needs during the term of the license as determined by the council. A licensee or applicant shall specify what grants, if any, it is willing to make for studio equipment and facilities to be used for local program production by all cable access users. Applicants are encouraged to include proposals for local origination programming by the licensee.

b. All access channel operations must conform to the following minimum requirements:

i. Access channels shall be carried on the licensee's lowest priced service offering.

ii. The license may require a licensee or other entity to manage the access channels and to establish reasonable rules for the use of access channels consistent with the requirements of this chapter and the intended purpose of such channels.

iii. The use of any educational access channel shall be made available free of charge to schools and other qualified educational institutions for the transmission of local educational programming.

iv. The use of any local government access channels shall be made available free of charge to the council for the transmission of government related programming.

v. The licensee shall submit to the council on an annual basis a plan for publicizing access programs and access use.

c. At the request of a licensee the council may promulgate rules under which channel capacity dedicated to access use may be used by the licensee when it is not being used for access purposes.

d. A license shall include a provision for the licensee to provide channel capacity for community programming on terms and conditions specified in the license agreement.

H. Interconnection.

1. A licensee shall interconnect its cable system with other or all other systems located in the town, in nearby cities, or in the county upon the request of the council, where economically and technically feasible.

2. Upon receiving the request of the council to interconnect, a licensee shall initiate negotiations with the other affected systems in order that technical details be resolved and costs may be shared on an equitable basis.

I. Local Broadcast Channels.

Each cable system shall carry as part of the basic service local channels broadcast in its area as required and defined in current FCC regulations. In this regard, those parts of 47 C.F.R. Part 76 relating to carriage of local channel signals as existing, or as may be amended, shall apply and are incorporated herein by reference.

J. Technology Review.

1. The town and licensee shall meet at periods not exceeding three years or upon request of either to discuss changes in cable television laws, regulations, technology, competing services, the needs of the community and other factors impacting cable television. As a result of these discussions, this license may be modified by the town and the licensee to respond to the change in laws, regulations, technology, competing services, the needs of the community or other factors impacting cable television.

2. If any of the following conditions occur, and upon written request of either licensee or town, the town manager and licensee agree to meet and discuss in good faith the terms of a mutually agreeable license amendment:

   a. Cable service similar to cable television service offered by licensee is provided by any entity using the streets and public ways, which is not subject to similar licensing requirements of the town.

   b. The Cable Act is amended to allow licensee to provide intrastate or interstate telecommunication and any regional Bell operating company to provide cable service.

   c. Any other significant event occurs, including but not limited to a final non-appealable order or judgement by a court of competent jurisdiction, which either licensee or town believes may impact the current terms and conditions of the license.

The purpose of the meeting and discussion is to use best efforts to reach mutually acceptable agreement for recommendation to the council for proposed council action within ninety days of such written request, on how to amend the license to relieve town or the licensee from any commercial impracticability, which arises from the condition in question. This provision shall not require that the license be amended, however it is intended to facilitate a process whereby the parties may reach a mutually acceptable agreement.

ARTICLE 17-9 FEES, BONDS, LETTERS OF CREDIT, LIQUIDATED DAMAGES AND APPEALS

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 certified or cashier's check made payable to the town. Non-refundable filing fees in the following amounts are required:

1. For an initial license or renewal: $2,500.

2. For consent to transfer or change ownership: $2,000.

3. For license modifications:

   a. pursuant to 47 U.S.C. Section 545: $2,500.

   b. any other modification: up to $2,000.

B. License Fee.

1. In consideration of the fact the streets of the town will be used by a licensee in the operation of its cable system within the boundaries of the town and said streets are valuable properties acquired and maintained by the town at great expense to its taxpayers, and in consideration of the costs incurred by the town in regulating and administering each cable license, the licensee shall pay to the town no less than five percent of the licensee's gross annual revenue, from all sources attributable to the operations of the licensee within the licensed area. Adjustments for one-time fees paid may be considered.

2. This payment shall be computed quarterly, for the preceding quarter, as of March 31, June 30, September 30 and December 31 of each year. Each quarterly payment shall be due and payable no later than thirty days after the relevant computation date. Each payment shall be accompanied by a financial report showing in detail the gross revenues of the licensee related to that quarter.

3. Except as provided in paragraph 8 of this subsection, the payment required pursuant to this article shall be in addition to any other tax or payment owed to the town pursuant to any other applicable ordinance or chapter of the town code, regulation or law of the county, state or federal government.

4. A license fee not received in full by the town within thirty days of its due date shall be deemed delinquent and subject to a late fee. The late fee for delinquent payment shall be five percent of the amount overdue plus interest at the rate of one and one-half percent per month, or parts thereof.

5. Where the licensee fee is based on gross revenues, the licensee shall file, with each license payment, a statement of the gross revenues for the period on which the fees are based. Such a licensee must file within three months of the end of its fiscal year a statement of gross revenues for the preceding year, which is either audited or certified as accurate by an officer of the licensee. Any payment of license fees to adjust for a shortfall in the quarterly payments for the preceding year must be made not later than the filing date for the audited annual statement of gross revenues. Adjustments for any overpayment will be credited to subsequent quarterly payments. Interest and late charges (as specified above) will not be imposed for any payment necessary as a result of the yearly adjustment if the payment to correct the shortfall does not exceed ten percent of the total payments made during the preceding year. In the event such payment exceeds ten percent, the licensee is liable for interest and late charges for the entire amount due.

6. The town manager shall have the right, upon reasonable notice, to inspect or audit during normal business hours a licensee's records showing the gross revenues and other relevant underlying data and information. Upon examination of such information, the town manager has the right to recompute any and all amounts paid under a license. Any additional amounts, due the town as a result of an audit and appeal process specified in the license agreement, shall be paid by the licensee within thirty days following written notice to the licensee by the council, which shall include a copy of the inspection or audit report. In the event that an inspection or audit results in additional monies owed the town in excess of five percent of the total paid, the licensee shall bear the total cost of the audit, and late charges and interest on the additional amount due.

7. No acceptance by the council of any payment shall be construed as an accord that the amount paid is in fact the correct amount nor shall such acceptance of payment be construed as a release of any claim the council may have.

8. There shall be allowed as an offset against the license fee due under this article any amounts licensee paid to the town during the prior quarter in privilege license (sales) taxes; provided, however, that there shall be no offset to the extent that licensee made payments of privilege license (sales) taxes on any gross income (within the meaning of the privilege license [sales] tax ordinance) which is not included in gross revenues under this chapter. The license shall provide for suitable procedures and methods for audit of this offset.

C. Performance Bond.

1. Within thirty days after the execution of the license agreement and prior to any construction work in the public right-of-way, the licensee shall file with the town manager a performance bond, or a letter of credit in a form acceptable to the town attorney, in the town's favor in the amount of fifty thousand dollars, or as specified

in the license agreement. In the event that licensee fails to comply with any provision of this chapter or the license agreement, then there shall be recoverable jointly and severally from the principal and surety any and all damages or costs suffered by the town. These damages or costs shall include but not be limited to attorney's fees, cost of any action or proceeding and including the full amount of any compensation indemnification, cost of removal or abandonment of any property or other costs due and owing the town up to the full amount of such bond.

2. At such time as ninety-five percent of planned construction in the town is complete, as specified in license agreement, the council may, at licensee's request, reduce or eliminate the performance bond requirement.

3. The bond shall be issued by a surety company authorized to do business in the State of Arizona and shall be in a form approved by the town attorney, and contain the following endorsement:

> "This bond may not be canceled, or allowed to lapse, until sixty days after receipt by the council, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

4. The rights reserved by the council with respect to the bonds required are in addition to all other rights and remedies the council may have under this chapter, the license agreement or any other law.

D. Irrevocable Letter of Credit.

1. Within thirty days after written notification of the award of license by the council, the selected applicant shall provide the town manager a letter of credit from a financial institution licensed to do business in Arizona in the amount of ten thousand dollars, or as specified in the license agreement, as security for the faithful performance by licensee of all provisions of this chapter and compliance with all orders, permits and directions of any department of the town.

2. The form and content of such letter shall be approved by the town attorney and contain the following endorsement:

> "This letter of credit may not be canceled or allowed to lapse until thirty days after receipt by the town manager, by certified mail, return receipt request, of a written notice from the issuer of the letter of credit of its intent to cancel or not to renew."

In the event the letter of credit is insufficient to pay the town for any compensation, damages, penalties, costs or expenses owed it pursuant to this chapter or the license agreement, the licensee's performance bond may be drawn upon by the town manager for any amount due the town over and above the amount of the letter of credit.

3. Within fifteen days after written notice to licensee by the town manager that the town manager has withdrawn any amount from the letter of credit, licensee shall deposit or pay to the town manager a sum of money sufficient to restore such letter of credit to the original amount of ten thousand dollars, or as specified in the agreement.

4. If a licensee fails to pay the town: any compensation within the time fixed by this chapter or the license agreement; any taxes due; or any damages, costs or expenses which the town incurs by reason of any act or default of the licensee; or if the licensee fails to comply with any provision of the license agreement which failure the town manager determines can be remedied or partially cured by demand on the letter of credit, the town manager may, following ten days notice to the licensee, withdraw from the letter of credit the amount so claimed by the town manager if within such period the licensee has not remedied the matter. The town manager shall immediately notify licensee of any such withdrawal, the date and amount.

5. The rights reserved to the town manager with respect to the letter of credit are in addition to all other rights it may have under this chapter, the license agreement and any other law.

6. Failure to maintain the letter of credit as required shall constitute a violation of the provisions of this chapter.

E. Liquidated Damages.

All license agreements shall contain provisions for liquidated damages, in amounts as mutually agreed upon between the town manager and the licensee, for the licensee's failure to comply with various requirements of this chapter and the license agreement as specified below. All references to notices throughout this subsection shall be by certified or registered mail, return receipt requested.

1.For failure to substantially complete construction or line extensions as required, unless the council specifically approves a delay caused by the occurrence of conditions beyond the licensee's control, the licensee shall pay one hundred dollars per day for each day, or part thereof, the deficiency continues after licensee has been given notice of such deficiency and seven days within which to cure it pursuant to paragraph 8 of this subsection.

2. For material failure to provide data, documents, reports and information in a timely manner as required, the licensee shall pay fifty dollars per day, or part thereof, that each violation occurs or continues after licensee has been given notice of such deficiency and seven days within which to cure it pursuant to paragraph 8 of this subsection.

3. For material failure to test, analyze and report on the performance of the system following a request from the town manager to do so, the licensee shall pay twenty-five dollars per day for each day, or part thereof, that such noncompliance

continues after licensee has been given notice of such deficiency and seven days within which to cure it pursuant to paragraph 8 of this subsection.

4. Failure to substantially comply with the material provisions of Article 17-8 of this chapter, the licensee shall pay one hundred dollars per day for each day, or part thereof, that the violation continues after licensee has been given notice of such deficiency and seven days within which to cure it pursuant to paragraph 8 of this subsection.

5. For substantial failure to remedy any other violation of the chapter or the license agreement within seven days of receipt of notice of each violation, the licensee shall pay one hundred dollars per day for each day, or part thereof, that the violation continues after licensee has been given notice of such deficiency and seven days within which to cure it pursuant to paragraph 8 of this subsection.

6. For failure to substantially comply with reasonable orders of the town manager, the licensee shall pay fifty dollars per day for each day, or part thereof, that noncompliance continues after licensee has been given notice of such deficiency and seven days within which to cure it pursuant to paragraph 8 of this subsection.

7. Liquidated damages will not be imposed by the town manager if the town manager finds that the failure of the licensee resulted from conditions beyond the licensee's control. Liquidated damages may be reduced or eliminated by the town manager if the town manager finds that the failure of the licensee resulted from excusable neglect. The licensee shall bear the burden of proof in establishing the existence of such conditions.

8. Prior to assessing any of the liquidated damages set forth in this article, the town manager shall give licensee seven days written notice of its intention to assess such damages. In said notice, the town manager shall set forth, at a minimum, the following:

    a. amount to be assessed;

    b. factual basis for such assessment; and

    c. specific license provision alleged to have been violated.

    Following receipt of notice set forth in this article, licensee shall have a seven day period during which time licensee and the town manager shall make reasonable efforts to resolve the dispute in question. Collection of liquidated damages by the town for any breach shall constitute the town's exclusive remedy for the period for which liquidated damages were collected.

9. The imposition and collection of liquidated damages as set forth above shall not prevent the town manager from pursuing other remedies for other violations of either the article or the license agreement for which liquidated damages have not been imposed and collected.

F. Appeals.

1. In the event that licensee contests the town manager's assessment of liquidated damages, or fails to respond to the above mentioned notices, within fourteen days the town manager shall convene an administrative hearing as specified in subparagraph a of this paragraph. Licensee may pay the fine, proceed with this hearing, or waive its rights to this administrative hearing and proceed directly to the public hearing before the council, as specified in subparagraph b of this paragraph.

    a. This shall be an administrative hearing, and licensee shall be afforded procedural due process, including an opportunity to be heard and to present evidence. Within fourteen days after the conclusion of such administrative hearing, the town manager shall issue a determination. In that determination the town manager may:

        i. find that licensee is not in violation of this chapter or the license agreement;

        ii. find that licensee is in violation of this chapter or the license agreement, but that violation was with just cause and waive any penalty that might otherwise be imposed;

        iii. find that licensee is in violation of this chapter or of the license agreement, take corrective action and foreclose on all or any appropriate part of the letter of credit or performance bond provided for elsewhere in this chapter;

        iv. find that licensee is in material violation of this chapter and the license agreement and recommend the council declare the licensee in violation and terminate the license agreement, provided the council may take such action only after a public hearing as set forth in subparagraph b of this subsection.

    b. If a public hearing before the council is requested by licensee or is held pursuant to item 4 of subparagraph a of this paragraph, it shall be de novo and it shall convene within thirty days of the request thereof. Licensee shall be afforded full due procedural process, including without limitation, an opportunity to be heard and to present evidence. The council's decision, which shall include findings of fact and conclusions, shall be made not later than thirty days after the conclusion of the hearing. In that decision, the council may:

i. find that licensee is not in violation of this chapter or the license agreement;

ii. find that licensee is in violation of this chapter or the license agreement, but that violation was with just cause and waive any penalty that might otherwise be imposed;

iii. find that licensee is in violation of this chapter or of the license agreement, take corrective action and foreclose on all or any appropriate part of the letter of credit and/or performance bond provided for elsewhere in this chapter;

iv. find that licensee is in material violation of this chapter and the license agreement and declare the licensee in violation and revoke the license agreement pursuant to Article 17-10.

ARTICLE 17-10 TERMINATION - REVOCATION

A. Termination.

The license shall terminate, upon the expiration of the term thereof, unless renewal is successfully applied for, per Article 17-11.

B. Revocation.

1. If a licensee is in material violation of this chapter or in default of the terms of its license agreement, the town manager may make written demand that the licensee come into compliance with said requirements within a reasonable period of time, as specified in Article 17-9. If the licensee is unwilling or unable to do so, the town manager may recommend the revocation, alteration or suspension of the license to the council, specifying the reasons for such action.

2. A copy of any such recommendations shall be served by certified or registered mail, return receipt requested upon the licensee, and the licensee shall be given at least fourteen days notice prior to the date of a public hearing before the council to consider such action, and the licensee will be given an opportunity to present evidence and make arguments at such meeting.

3. The council shall consider the recommendations, the response of the licensee, and hear from any other interested persons, and shall determine whether or not the licensee is in violation or default of its obligations and, if so, whether such failure was with just cause.

4. If the council finds that the failure by the licensee was with just cause, the council shall direct the licensee to comply within such time and manner and upon such terms and conditions as are reasonable.

5. If the council determines that the licensee's failure was without just cause, the council may declare the license revoked, altered or suspended. The council may provide a specified period of time for the licensee to come into compliance before the revocation takes effect.

6. A license may be revoked, altered or suspended by the council on the following grounds, among others, and taking into account any ameliorating circumstances:

a. Fails to comply with any material provision of this chapter or the license agreement.

b. Makes willful false or misleading statements in any application.

c. Engages in the practice of any fraud or deceit upon the town or subscribers.

d. Fails to abide by the privacy provision of this chapter.

e. Fails to make timely payment of any monies due the town pursuant to this chapter.

f. Unless otherwise provided in the license agreement, fails to commence construction in the license area within three months and to commence basic service within six months from the effective date of the license agreement.

g. Fails to file and maintain the bonds, insurance, records, failure to pay license fees or assessed property taxes.

h. For repeated material failure to maintain service quality under the standards prescribed.

i. Fails to restore service after forty-eight consecutive hours after notice to the licensee or interrupted service to the entire system, except when such interruption is beyond the control of the licensee.

C. System Disposal.

In the event of termination or revocation of a license, the licensee involved shall offer to sell the cable system, at the fair market value, to a new licensee or applicant for a license. The fair market value shall be determined in accordance with generally accepted appraisal procedures. The original cost of all tangible and intangible property, as well as salvage value, book value, replacement cost, cash flow and other factors will be considered. Under no circumstances shall any valuation be made for any right or privilege granted by license. Should the licensee fail to negotiate a sale, as described above, the town may purchase the system at the fair market value for the purpose of leasing to a qualified operator until a buyer can be found, pursuant to the provisions of A.R.S. §9-509.

D. Continuity of Service.

Licensee shall provide continuous service for the entire term of the license agreement to all subscribers and users in return for payment of the established rates, fees and charges. If licensee seeks to sell or transfer, or if the town revokes or fails to renew the license, licensee shall continue to operate the system as trustee for its successor in interest until an orderly and lawful change of operation is effected. This period of operation shall not exceed one hundred twenty days from the occurrence of any of the above events. Revenues accrued during that period of time shall be received by the operator. During such time, the cable system shall be operated under terms and conditions consistent with the most recent license agreement and this chapter.

ARTICLE 17-11 RENEWAL

A. If a licensee decides to initiate a formal license renewal process in accordance with 47 U.S.C. Section 546, it must notify the council within thirty to thirty-six months prior to the license expiration date.

B. In considering a renewal application, the council must consider whether:

1. The licensee has substantially complied with the material terms of the existing license and applicable law;

2. The quality of licensee's service, including signal quality, customer service complaint resolutions, billing practices (without regard to mix, quality or level of cable services) has been reasonable in light of community needs;

3. The licensee has the financial, legal and technical ability to provide services, facilities and equipment set forth in its renewal proposal; and

4. The licensee renewal proposal is reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests.

C. If the council's assessment is that the license should not be renewed, the council may commence an administrative hearing in accordance with 47 U.S.C. Section 546.

D. The provisions of 47 U.S.C. Section (a) - (g) notwithstanding, a licensee may submit an application for renewal in accordance with Section (h), which affords a cable operator the opportunity to submit a proposal for the renewal of a license at any time. The council may, after adequate public notice and comment, grant or deny such proposal.

E. The renewal of a license does not become effective until any renewal fees have been paid by the licensee.

ARTICLE 17-12 TRANSFERS AND CHANGE OF CONTROL

A. Licensee shall not sell, transfer, assign, exchange or release, or permit the sale, transfer, assignment, exchange or release of more than forty-nine percent of the cumulative ownership of the system without prior written authorization from the council. For the purposes of this article, a merger or consolidation shall be deemed a transfer or assignment. The town manager shall be promptly notified in writing, within sixty days of the effective date of any such sale, transfer, assignment, exchange or release which constitutes more than five percent of the cumulative ownership of the system. Nothing in this article shall be deemed to prohibit a pledge or hypothecation or mortgage or similar instrument transferring conditional ownership of the systems assets to a lender or creditor in the ordinary course of business, unless such interest shall exceed seventy-five percent of the original cost or the fair market value, whichever is higher.

B. No licensee shall sell, transfer, assign, exchange or release, or permit the sale transfer, assignment, exchange or release of more than ten percent of the cumulative ownership of the system, during the thirty-six month period commencing on final award to a licensee by the council, without expressed written consent of the council.

ARTICLE 17-13 INDEMNITY INSURANCE

A. The licensee shall at its sole cost and expense, indemnify, hold harmless and defend the town, its officials, boards, commissions, agents and employees by providing immediate defense with counsel approved by the council, against any and all claims, suits, causes of action, proceedings and judgments for damages arising out of construction, maintenance or operation of the cable communication system.

B. The licensee, within thirty days after written notice of the granting of a license, shall provide the town with and maintain in full force throughout the term of the license agreement, insurance issued by a company duly authorized to do business in the State of Arizona, insuring with respect to the installation, construction, operation and maintenance of the system as follows:

1. Comprehensive general and automobile liability coverage including, but not limited to, blanket contractual liability, completed operations liability, broad form property damage including but not limited to coverage for explosion, collapse, underground hazard and automobile non-ownership liability. This insurance shall be written in the following minimum amounts.

a. Comprehensive general liability: $1,000,000 combined single limit, bodily injury and property damage

b. Comprehensive automobile liability: $1,000,000 combined single limit, bodily injury and property damage

c. Excess liability, covering all the above mentioned hazards, in the minimum amount of $4,000,000.

2. Workers' compensation coverage as required by the laws and regulations of the State of Arizona.

3. All insurance policies required herein shall include the town as a named insured party.

4. Licensee shall be solely responsible for all premiums due and payable for insurance required herein. Licensee shall provide to the town a certified copy of the policies listed above.

5. All insurance policies required herein shall be in a form approved by the town attorney and shall include a sixty day notice of cancellation or modifying endorsement.

C. The provisions of subsection B of this article, in the discretion of the town, may be satisfied by proof of self-insurance.

ARTICLE 17-14 ADMINISTRATION

A. Inspection of Records. The council reserves the right during the term of the license agreement and during normal business hours and upon the giving of reasonable notice to examine, audit, review and obtain copies of licensee's contracts, engineering plans, accounting, financial data and service records relating to the property and operations of the licensee and to all other records required to be kept pursuant to this chapter. The review and copying of information should be subject to confidentiality protections and FCC privacy rules.

B. Licensee Rules and Regulations. Copies of such rules, regulations, terms and conditions adopted by the licensee for the conduct of its business shall be provided to the town manager, upon request of the town manager.

C. Town Manager. The town manager or his designee shall have responsibility for the day-to-day administration of cable communication operations within the town as governed by this chapter and the applicable license agreements. The town manager shall be empowered to take all administrative actions on behalf of the council except those actions specified herein which are reserved to the council or another town office or officer.

ARTICLE 17-15 GENERAL PROVISIONS

A. Non-Discrimination. Licensee shall not deny service, access or otherwise discriminate against subscribers, users or residents of the town. Licensee shall comply at all times with all applicable federal, state and town laws, rules and regulations, executive and administrative orders relating to non-discrimination and equal employment opportunities and requirements.

B. Laws and Codes. Licensee shall comply fully with all applicable local, county, state and federal laws, codes, ordinances, rules and regulations.

C. Cumulative Rights and Remedies. Except as specified herein, all rights and remedies of the town manager and the council in this chapter are cumulative and may be exercised singly or cumulatively at the discretion of the town manager or the council.

ARTICLE 17-16 RIGHTS RESERVED TO THE COUNCIL

Without limitation upon the rights which the council may otherwise have and subject to paragraph 9, subsection B of Article 17-7, the council does hereby expressly reserve the right to amend any article or provision of this chapter for any reason determined to be desirable by the council including, but not limited to:

A. New developments in the state of technology of cable communications systems.

B. Any changes in federal or state laws, rules or regulations.

CHAPTER 18 FIRE PREVENTION AND PROTECTION

ARTICLE 18-1 FIRE PREVENTION AND PROTECTION

Section 18-1-1 Fire Department established; authority and duties
Section 18-1-2 Fire Department response outside Town boundaries
Section 18-1-3 Enforcement; annual report
Section 18-1-4 Permits; reviews and inspections
Section 18-1-5 Modifications
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Section 18-1-9 On-site plans
Section 18-1-10 Explosives and blasting
Section 18-1-11 Fireworks
Section 18-1-12 Violation; penalty

Section 18-1-1 Fire Department established; authority and duties

A. There is hereby established for the Town of Queen Creek a Fire Department. The Fire Department shall be headed by the Chief of the Fire Department. The Chief of the Fire Department is hereby granted authority to enforce the provisions of this chapter and the Town's adopted fire prevention code (the "Town of Queen Creek Fire Code" or the "Fire Code"). The Chief shall be responsible for the direction of all firefighting, fire prevention, and fire service activities of the Town and be responsible for planning and developing programs to protect the life and property in the Town from fire. The Chief shall be responsible for establishing departmental policies and rules necessary for the operation of the Fire Department. The Chief shall assign, appoint, and designate personnel and maintain training programs.

B. The Chief of the Fire Department may designate members of the Fire Department as arson investigators who shall, while engaged in arson investigations in this State, possess and may exercise law enforcement powers of peace officers of this State provided that:

1. The primary duty of arson investigators is the investigation, detection and apprehension of persons who have violated or are suspected of violating any provisions of A.R.S. title 13, chapter 17 (A.R.S. § 13-1701 et seq.) relating to crimes of arson; and
2. Any individual designated as an arson investigator shall have law enforcement training under the provisions of A.R.S. § 41-1822.

3. This subsection shall not be construed as granting any powers of peace officers of this State to arson investigators other than those necessary for the investigation, detection and apprehension authority as specifically provided herein.

C. The Chief of the Fire Department shall appoint a Fire Marshal who shall perform the functions of fire prevention throughout the Town. The Fire Marshal is hereby granted authority to enforce the provisions of this chapter and the Town's adopted Fire Code.

D. The Fire Department shall be responsible for extinguishing fires and performing necessary public services of an emergency nature. The Fire Department shall also maintain effective operation of Fire Department communications.

E. The Fire Department is hereby granted the authority to:

1. Organize and maintain fire alarm and telephone systems, provide for the management and control of the same, for the appointment of superintendents thereof, also to erect and maintain suitable buildings, equipment and implements.
2. Regulate or prohibit the manufacture, keeping, storing and using of powder, dynamite, gun cotton, nitroglycerine, fireworks and other explosive materials and substances.
3. Regulate the storage of hay, straw, oil and other inflammable and combustible materials.
4. Regulate the use of steam engines, gas engines, steam boilers and electric motors, and to prohibit their use in such localities as in the judgment of the Fire Marshal would endanger public safety or health; also to regulate the installation of gas and electric fixtures and appliances and to provide for proper inspection of same.
5. Prescribe fire limits and determine the character and height of buildings that may be erected therein and the nature of the materials to be used in the construction, alteration or repair of such buildings or in the repair or alteration of existing buildings within such fire limits.
6. Regulate the construction of and the materials used in all buildings, chimneys, stacks and other structures; and the construction and use of party walls; to prevent the erection and maintenance of unsafe or insecure buildings, walls, chimneys, stacks or other structures, and to provide for their summary abatement or destruction; to regulate the materials used in and the method of construction and location of drains and sewers, the materials used in wiring buildings or other structures for the use of electricity for lighting, power, heat or other purposes, and materials used in piping buildings or other structures for the purpose of supplying the same with water or gas and the

manner of so doing; to prohibit the construction of buildings and structures which do not conform to such regulations.

7. Require the owners and lessees of buildings or other structures to place upon or in them adequate fire escapes and appliances for protection against fire and for the extinguishment of fires.
8. Prevent the construction and to cause the removal of dangerous chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers, apparatus and machinery used in any building in the Town; to regulate the carrying on of manufacturing liable to cause fire; to prevent the depositing of ashes, the accumulation of shavings, rubbish or any other combustible material in unsafe places, and to make all necessary provisions to guard against fires.
9. Recover costs for services rendered within and without the Town's corporate limits.
10. Perform such additional duties and services as may be required by the Town Council.

F. The Chief of the Fire Department and officers of the Fire Department, when at the scene of a fire or other emergency, may direct or assist peace officers in directing traffic there at or in the immediate vicinity.

Section 18-1-2 Fire Department response outside Town boundaries

The Fire Department is hereby authorized to answer fire alarms, fight fires and provide emergency services beyond the corporate boundaries of the Town of Queen Creek whenever the Fire Chief, in his discretion, shall deem it necessary for the protection of lives and property. The Fire Department is authorized to charge Emergency Medical Equipment and Standby Personnel fees, and other charges for recovery of costs applicable when Town of Queen Creek firefighters, paramedics, and equipment are used to provide service outside the incorporated boundaries of the Town of Queen Creek.

Section 18-1-3 Enforcement; annual report

A. The Fire Code, also referred to herein and within Chapter 7 of the Queen Creek Town Code as "This Code", including all related technical codes and standards, amendments, rules and regulations for the technical codes, appendices and other building regulations adopted by the Town shall be enforced by the Fire Department of the Town, under the supervision of the Chief of the Fire Department.

B. The Chief of the Fire Department may detail and assign such members of the Fire Department as fire prevention inspectors as shall from time to time be necessary. The Chief of the Fire Department shall recommend to the Town Manager the employment of technical inspectors when necessary.

C. A report on fire prevention activities shall be made annually and transmitted to the Town Manager, or more frequently as determined by the Chief of the Fire Department and Town Manager. It shall contain all proceedings under this chapter with such statistics as the Chief of the Fire Department may wish to include therein and recommendations of amendments to this chapter and the Fire Code.

Section 18-1-4 Permits; reviews and inspections

The Chief of the Fire Department, Fire Marshal, or designee, including designated fire code officials, are authorized to receive applications, review construction documents, conduct inspections and re-inspections, and issue certificates and permits, and stipulate conditions therefore. Permits shall not be issued when public safety would be at risk, as determined by the issuing fire code official(s).

Section 18-1-5 Modifications

The Chief of the Fire Department shall be authorized to determine the specific applicability of the Fire Code adopted by the Town when there are practical difficulties in carrying out the strict letter of the code, upon written application that a practical difficulty exists; provided, that the spirit of the Fire Code shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Chief of the Fire Department thereon, shall be entered upon the records of the Fire Department, and a signed copy shall be furnished to the applicant.

Section 18-1-6 Conflicting provisions

Nothing in the Fire Code adopted by the Town shall be construed to prevent the enforcement of other laws which prescribe more restrictive limitations, nor shall the permissive provisions of the Fire Code be presumed to waive limitations imposed by other statutes or ordinances of the Town or the State.

Section 18-1-7 Tampering, injuring fire alarm system or pumps and hydrants

It shall be unlawful for any person to tamper or injure any part of a fire alarm system or any reservoir, pumps, pipes, valves, gates and fire hydrants or to use or remove, without permission of the Chief of the Fire Department, except for the protection of property from fire damage, any part of the equipment of the Fire Department.

Section 18-1-8 Interference with firefighters in performance of duties; disobedience to orders of firefighters engaged in duties

It shall be unlawful for any person to interfere with the lawful efforts of any firefighter, or company of firefighters, including the Fire Marshal, paramedics and fire code officials, in the performance of their duties, or to engage in any disorderly conduct which might reduce the efficiency of such firefighters, or to forbid, prevent or dissuade others from assisting such firefighters in the performance of their duties, or to disobey the lawful orders of the public officer or firefighters while engaged in extinguishing any fire or responding to an alarm or fire.

Section 18-1-9 On-site plans

Plans and specifications shall be submitted to the Fire Department for review and approval prior to construction. One set of fire department approved plans shall be on the job site for each inspection.

Section 18-1-10 Explosives and blasting

Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within hazardous fire areas, except by permit issued by the Fire Marshal.

Section 18-1-11 Fireworks

Fireworks shall not be used or possessed in hazardous fire areas. The Fire Marshal is authorized to seize, take, remove or cause to be removed fireworks in violation of this subsection.

Section 18-1-12 Violation; penalty

Any person who shall violate any of the provisions of this article or the Fire Code adopted by the Town or fail to comply therewith, or who shall violate or fail to comply with any order made under this article or such Fire Code, or who shall build in violation of any detailed statement of specifications or plans submitted and approved under this article or such Fire Code or any certificate or permit issued under this article or such Fire Code, shall severally, for each violation and noncompliance respectively, be guilty of a Class 1 misdemeanor and shall be punished by a fine not to exceed $2500.00, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three (3) years, or by a combination of such fine, imprisonment, and probation. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects forthwith. Each day that prohibited conditions are maintained shall constitute a separate offense punishable as hereinabove described.

Article 18-2 EMERGENCY SERVICE COST RECOVERY

18-2-1 Emergency Service Cost Recovery Ordinance
18-2-2 Findings
18-2-3 Purpose and intent
18-2-4 Administration and responsibility
18-2-5 Definitions
18-2-6 Emergency Service Cost Recovery
18-2-7 Recovery of costs for Hazardous Waste Incidents
18-2-8 Notice of Responsibility and Service
18-2-9 Appeal
18-2-10 Method of Collection
18-2-11 Accounting of costs of cleanup
18-2-12 Use of costs paid or collected
18-2-13 Indemnity

18-2-14 Effect of criminal or civil proceedings on cost recovery or permit issuance
18-2-15 Professional Emergency Service Contracts
18-2-16 Remedies and non-exclusive charges

Section 18-2-1 Short Title

This Article shall be known as the “Emergency Service Cost Recovery Ordinance”.

Section 18-2-2 Findings

The Town of Queen Creek is authorized to provide services relating to the protection of lives and property including, but not limited to, fire protection services, rescue services, emergency medical services, and hazardous material emergency response services.

The Fire Department can be called upon to provide fire-rescue services within and without the Town’s corporate limits.

These services include actions to mitigate injury to the public health, safety and welfare from fire, trauma, acute illness, hazardous conditions and other emergencies.

The expenses associated with providing these services can be substantial.

The Town Council of the Town of Queen Creek finds that the costs of providing some of the services of the Queen Creek Fire Department are an increasing burden on the Town of Queen Creek.

Section 18-2-3 Purpose and intent

It is the purpose and intent of the Town of Queen Creek to establish rates to cover costs of services which the Queen Creek Fire Department provides related to motor vehicle accidents, collisions, motor vehicle fires, motor vehicle extractions, technical rescue incidents, hazardous materials spills or discharge, wildland fires, non-permitted burns, incidents caused by negligence and/or willful disregard for established fire and life-safety codes including but not limited to utility line, and other emergency incidents within and without the Town’s corporate limits.

The Town of Queen Creek provides services to the community funded through the General Fund by tax revenues. Reimbursement may be sought for the increased costs of providing such services, whenever practicable, from parties who, by reason of neglect or malfeasance, cause incidents requiring police, fire and rescue services, or cause increased costs to the Town for gaining compliance with municipal ordinances. Cost recovery is a mechanism whereby these costs may be levied upon responsible parties, rather than the taxpayers of Queen Creek. To accomplish this, the Town of Queen Creek hereby establishes a cost recovery procedure in this article.

Section 18-2-4 Administration and responsibility

The administration of this article is under the direction of the Town Manager and Fire Chief, and by delegation, the finance director. Each department manager is responsible for tracking costs associated with cost recovery under their respective supervision and forwarding cost recovery invoices, calculations and documentation to the finance director, Fire Chief and Town Manager.

The Town of Queen Creek shall, at its sole discretion, determine whether or not town resources and/or personnel are available for reimbursable services. Furthermore, all persons responsible for the enforcement or application of this article, shall not be liable for any damage or injury to persons or property arising out of or relating in any way to the application or enforcement of this article.

Section 18-2-5 Definitions

"Cost(s) or Charge(s)" shall mean to include, but not be limited to, Town charges and expenses for emergency personnel salaries and costs and expense of incidents connected to: emergency incidents, hazardous material incidents, malicious incidents, motor vehicle collision, non-permitted burns, nuisance incidents, which are determined by the Fire Chief or as contained in the applicable Queen Creek fee schedule.

"Emergency Incident" shall mean to include, but not be limited to, those incidents that require fire, rescue and/or medical response in an immediate fashion, following established emergency response protocols, and includes, but is not limited to: hazardous material incidents, malicious incidents, motor vehicle collisions, non-permitted burns, nuisance incidents, technical rescue events, wildland fires and any other type of incident listed or designated in this article or designated by the Fire Chief.

"Expense of Incident" or **"Incident Expense"** means the costs and charges incurred by the Town of Queen Creek in making an appropriate emergency response to an incident. It consists of all costs directly arising because of the particular incident, including, but not limited to the actual costs and charges of providing police, firefighting, hazardous material incident management, rescue and emergency medical services at the scene of the incident, as well as the actual salaries and fringe benefits of the emergency personnel responding to the incident. Recoverable costs also include the actual costs for damage or destruction to Town of Queen Creek property, any utility or service charges to the Town from other public agencies resulting from the incident, and the actual cost of medical treatment for any Town personnel injured during the response.

"Emergency Personnel" means personnel who are employees of the Town of Queen Creek Fire Department during their involvement in an emergency or non-emergency incident/event.

"Hazardous Material Incident" means those incidents, including but not limited to emergency incidents, involving the release, or threatened release or exposure, of hazardous substances as defined in this article and/or any product that could prove a danger to health or the environment.

"Intentionally Wrongful Conduct" means conduct intended to injure another person or property.

"Malicious Incident" means those incidents, including emergency incidents, which stem from an individual's intentional purpose to cause property damage, endanger lives, and/or cause the response of emergency personnel for other than an actual emergency.

"Motor Vehicle Collision" means incidents, including emergency incidents, involving one or more motorized vehicles including cars, trucks, buses, planes, helicopters, trains, motorcycles, and the vehicles and trailers being pulled by motorized vehicles.

"Non-Emergency Incident" means those incidents which allow for fire, rescue and/or emergency medical response in a less urgent fashion, following established non-emergency response protocols.

"Non-Permitted Burns" means the intentional disposal of debris without the oral and/or written permission from the Fire Department.

"Nuisance Incident" means those incidents that are of the same nature, on a repetitive basis, at the same location, due to lack of servicing to mechanical and/or electrical equipment of an emergency system, or the failure to correct a previously documented fire hazard, or false reporting of an emergency incident or any other fire department response that is deemed unnecessary by the Fire Chief, including but not limited to false alarms caused by carelessness.

"**Responsible person"** or **"responsible party"** within this article means any person or party:

1. Who, by law is liable or made responsible for the payment to a governmental agency of its costs and expenses in providing police, fire, rescue and related emergency services;

2. Whose negligence or intentionally wrongful conduct proximately causes an emergency incident affecting public health or safety which necessitates an emergency response or rescue effort by a governmental agency to deal with or prevent injury to persons or damage to property;

3. Any person who is indebted to the Town by virtue of a duty, charge, cost, statutory duty, statutory obligation, statutory liability, tax or revenue imposed by law or ordinance; and

4. If a responsible party is a minor, the parent or guardian of that minor shall be jointly and severally liable with the minor for the expense of an emergency incident, as allowed by law.

"Person" or **"Party"** means any individual or group of individuals; or association, company, corporation, firm, organization, or partnership, singular or plural, of any kind; or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

"Technical Rescue Event" means incidents that require rope rescue, confined space rescue or technical rescue services and/or extraction.

"Special Event" means those non-emergency events that occur within and/or outside the Town limits that require the presence of Emergency Personnel employed by the Fire Department, or as requested by the owner of the involved property or event coordinator.

"Wildland Fire" means any outside fire involving general natural combustible materials, other than permitted burn, with no restriction concerning area involved, or size of any damaged area.

Section 18-2-6 Emergency Service Cost Recovery

A. The Town of Queen Creek and the Queen Creek Fire Department may recover costs, charges and expenses of incidents connected to emergency incidents. A responsible person or party shall be liable to the Town for all incident expenses, as described in this article or as designated by the Fire Chief, connected to emergency incidents and the following listed incidents or services:

1. Each person who is under the influence of an alcoholic beverage or any drug, or their combined influence, and whose negligent operation of a motor vehicle, boat, vessel, or aircraft caused by that influence proximately causes any incident resulting in an emergency incident, or whose intentionally wrongful conduct proximately causes any incident resulting in an emergency incident shall be liable to the Town for the expense of that emergency incident, not to exceed $2500.00 (twenty five hundred dollars), or any higher amount as may from time to time be established by law.

2. The expense of hazardous material incidents, including expenses for the containment, confinement, clean-up and/or mitigation of hazardous substances, releases and threats of release or exposure as defined in this article.

3. The expense of emergency incidents for fire suppression activity from a responsible party for the intentional setting of fire or the spread of fire to adjoining properties, or for fire suppression costs on occupied or mortgaged property against which a current, uncorrected notice of violation of a fire hazard has been issued.

4. The expense of emergency incidents for the rescue or medical treatment, or both, of persons placed in jeopardy or injured by the negligence or intentionally wrongful conduct of a responsible party.

5. The expense for injury to public safety personnel, or for damage to public property.

6. Emergency incidents outside the Town of Queen Creek limits may be invoiced to the property owner(s) and person(s) receiving assistance from the Fire Department.

7. Malicious Incidents may be invoiced to the responsible party(s)

8. Motor Vehicle Collisions where extrication is performed may be invoiced per occurrence. In the event multiple vehicles are involved the costs, responsibility shall be joint and several among all responsible parties and persons.

9. Motor Vehicle Collisions may be invoiced to the responsible party(s).

10. Non-Emergency incidents may be invoiced to the responsible party(s).

11. Non-Permitted Burns may be invoiced to the responsible party(s).

12. Nuisance Incidents may be invoiced per occurrence to the responsible party(s).

13. Permitted Burns that become out-of-control, as determined by the Fire Chief, due to negligence may be invoiced to the responsible party who was issued the permit.

14. Special Events services.

15. Technical Rescue Events may be invoiced to the responsible party(s).

16. Wildland Fires caused by negligence may be invoiced to the responsible party starting the fire.

B. Cost rates shall be invoiced at the determined rates for each resource, supplies, equipment, apparatus and personnel. The Town Council by separate resolution shall adopt a schedule of rates as described in this article and the Fire Chief shall have concurrent authority to designate incidents and services to be charged responsible parties and determine the rates therefore.

C. After review by the Fire Chief and Town Manager, the director of finance may charge the expense defined in this article to each responsible party or person. Each responsible party or person is jointly and severally responsible for all expense defined under this article. The charge constitutes a debt to the Town of Queen Creek, and may be collected by the Town in the same manner as in the case of an obligation to a municipality under a contract, expressed or implied.

Section 18-2-7 Recovery of costs for Hazardous Waste Incidents

A. The Fire Chief is authorized to clean up or abate the effects of any hazardous substance or waste unlawfully released, discharged or deposited upon or into any property or facilities within the Town, including but not limited to hazardous material incidents described in this article. The following described persons shall be jointly and severally liable to the Town for the payment of all incident expenses incurred by the Town as a result of such cleanup or abatement activity:

1. The person or persons whose negligent conduct or willful conduct or omission proximately caused such release, discharge or deposit;

2. The person or persons who owned or had custody or control of the hazardous substance or waste at the time of such release, discharge or deposit, without regard to fault or proximate cause; and

3. The person or persons who owned or had custody or control of the container which held such hazardous waste or substance at the time or immediately prior to such release, discharge or deposit, without regard to fault or proximate cause.

B. In the event that any person undertakes, either voluntarily or upon order of the Fire Chief or other city official, to clean up or abate the effects of any hazardous substance or waste unlawfully released, discharged or deposited upon or into any property or facilities within the Town, the Fire Chief may take such action as is necessary to supervise or verify the adequacy of the cleanup or abatement. The persons described in subsection A of this section shall be liable to the Town for all costs incurred as a result of such supervision or verification.

C. The expense of an emergency response to any spill or release of a hazardous substance, as hereinafter defined, which poses a significant present threat or potential hazard to human life, property or environment, shall be a charge against the person or entity whose conduct, or that of its employees, agents or contractors, caused or permitted the incident resulting in the emergency response. Said charge shall constitute a debt that is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under contract.

D. For the purposes of this subsection, costs incurred by the Town shall include, but shall not necessarily be limited to, the following: actual labor costs of Town personnel, including benefits and administrative overhead; cost of equipment operation; cost of any contract labor and materials. The charge for an emergency response shall be imposed in accordance with a schedule of fees, pursuant to the recommendation of the Chief of the Fire Department and Town Manager, adopted by resolution of the Town Council for the Town of Queen Creek, as it may from time to time be amended. Implementation of such an assessment procedure shall not be the exclusive remedy of the Town for recovery of such costs. The authority to recover costs under this subsection shall not include actual fire suppression services which are normally or usually provided by the Fire Department.

E. The cost imposed pursuant to this section shall be reasonably commensurate to the verifiable costs involved in emergency response to and/or prevention, abatement, mitigation or confinement of spills or releases of hazardous substances within or beyond town limits.

F. The Chief of the Fire Department or his designee shall determine the verifiable costs of the town for emergency response to hazardous substance spills or releases and shall use such costs to develop a cost recovery schedule of applicable charges necessary to recover town costs for such emergency responses. Said schedule shall be the basis for the Fire Chief's recommendation to the Town Manager and Town Council of the Town of Queen Creek.

G. Payment of any charge hereunder shall not relieve a person or entity, its employees, agents or contractors from compliance with any other applicable law, rule or regulation.

H. For purposes of this section 18-2-7 a hazardous substance shall be defined as any material that is identified in:

1. The Code of Federal Regulations, Title 49, Section 171.8;

2. Hazardous wastes such as any chemical, compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the State to be —hazardous waste as defined in 40 Code of Federal Regulations Section 261.1 through 261.33, as and if amended, except that, for purposes of this ordinance hazardous waste shall

include household waste as defined in 40 Code of Federal Regulations Section 261.4B.1.

3. Code of Federal Regulations, Title 40, Section 261.31—261.33; or

4. Any substance which is known by the business handling it to be likely to pose a significant present or potential hazard to public health, safety or the environment.

I. A material may be added to the list of hazardous substances as defined in section (H) hereof, upon a finding by the Fire Chief that the material, because of its quantity, concentration or physical or chemical characteristic, poses a significant present threat or potential hazard to human life, property or the environment if released into the community.

J. An emergency response shall be defined as a response by a city department or agency to prevent, abate, mitigate or confine a spill or release of a hazardous substance within or without the Town's corporate limits in order to protect human life, property or the environment from a significant present threat or potential hazard.

K. A release or spill shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, burning, dumping or disposing into the environment and/or community.

L. Any person or entity, its employees, agents or contractors who causes, permits or is responsible for a spill or release of a hazardous substance within the town limits, upon notification of the same, shall immediately cease all activities causing or likely to cause reoccurrence or continuation of such spills or releases and shall not resume such activities unless and until so directed by the Fire Chief or his designee.

M. No person or entity, its employees, agents or contractors shall dispose of or store any hazardous substance on public property, except under direction of the Fire Chief or his designee.

N. The remedies provided by this section shall be in addition to any other remedies provided by law.

Section 18-2-8 Notice of Responsibility and Service

Any notice given for any purpose under this article ("Notice(s) of Responsibility") shall be provided, in writing, to the responsible person or responsible party. Invoicing for costs under this article in connection with Notices of Responsibility shall contain, at a minimum, the date on which services were rendered by the Fire Department, the due date for payment of the invoice, the mailing address for payment, an explanation of the services provided, and the cost of rendered services.

Notice given for any purpose under this article shall be deemed received on the date when written notice is personally served in the same manner as provided by the Arizona Rules of Civil Procedure or mailed certified mail return receipt requested. If notice is served by certified mail, the notice shall be mailed to the last known address of the responsible person or party or the responsible person's or party's statutory agent. In the event that the post office address of the

responsible person or party is unknown or if the responsible person or party cannot reasonably be reached by mail, the town may publish such notice in the newspaper used by the town for one publication, and such service shall be complete and shall have the same effect and force as if personally served upon such responsible person or party.

Section 18-2-9 Appeal

Any responsible party, responsible person or person otherwise responsible for costs who disagrees with the Notice of Responsibility and/or costs invoiced under this article may appeal to the Town Manager by filing a written request with the Town Manager and Town Clerk no later than 15 days after receiving the Notice of Responsibility. The written appeal shall provide the reason for the appeal and describe the specific relief that the petitioner is seeking. The Fire Chief shall review the request and prepare a recommendation within 15 days. Upon receipt of the Fire Chief's recommendations, the Town Manager shall notify the petitioner, in writing, of the date, time and location of the hearing on the appeal. The Town Manager may affirm, vacate, or modify the Notice of Responsibility, including the charges connected thereto. The Town Manager may extend the time for payment for a reasonable period of time. If no timely statement of appeal is properly made, then the Notice of Responsibility, including charges, becomes final when the time for appeal lapses. The town is authorized to record the Notice of Responsibility and connected calculation of charges with the appropriate County Recorder's Office.

Section 18-2-10 Method of Collection

The Town Manager shall be authorized to collect the amount of charges imposed pursuant to this article in the same manner and method as delinquent utility bills and taxes. The Town shall be empowered to maintain proceedings in a court of competent jurisdiction to collect the amount of charges authorized by this article, including costs, expenses and attorney's fees in the same manner as municipal taxes. If delinquent, the amount of the charges, costs, expenses and fees shall be subject to the same penalties and the same procedure for foreclosure on property as are provided for municipal taxes.

A. Whenever charges for cost recovery are not paid within a reasonable time following demand, the Town Manager and the Town Attorney, as applicable, are authorized to prosecute the claim to judgment in an appropriate court with jurisdiction and to take any other action appropriate for collection.

B. The Town Attorney is authorized to collect any amounts due by civil or administrative action or both, together with all costs incurred in the collection of that indebtedness after demand for payment has been refused.

C. Recovery of costs for emergency incidents is in addition to any separate right of the Town to recover costs and damages from a responsible party whose negligence or wrongful conduct causes damage or injury to public property or personnel, or both.

D. The Town Manager, Fire Chief and Town Attorney are authorized to intervene or join in any action or proceeding, or initiate proceedings, connected to the costs and charges set forth in this article or pursuant to any other applicable law allowing for the recovery of costs of services.

Section 18-2-11 Accounting for Costs of Cleanup

A public safety official shall keep a record of costs incurred in connection with response, cleanup, disposal and directly related administration of cleanup of emergency incidents. This documentation shall be regularly distributed to the Town Manager, Fire Chief and finance director.

Section 18-2-12 Use of Costs Paid or Collected

Any and all costs paid or collected pursuant to this article shall be deposited by the finance director in a public services revolving account. The public services revolving account within the town's general fund is established, consisting of monies collected from payments levied under this article and such other funds as the Town Council may deem appropriate. The finance director shall administer the account. All costs paid or collected pursuant to the article that are deposited in the public services revolving account shall be designated for the Fire Department expenditures approved by the Town Council.

Section 18-2-13 Indemnity

Any person who requests emergency action, and any responsible person shall defend, indemnify, save and hold harmless the Town, its elected officials, officers, employees and agents, (collectively the Indemnitees) for, from and against any and all claims, demands, losses, damages, suits, actions, liabilities, fines, charges, penalties, obligations, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and cleanup actions of any kind, all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and professional, expert or consultant fees (including, but not limited to, such expenses incurred in any attempt to enforce this indemnification provision and the cost of appellate proceedings("Claims"), which may arise out of, in connection with, resulting from or related to in any manner, directly or indirectly, in whole or in part, out of any emergency incident.

Section 18-2-14 Effect of criminal or civil proceedings on cost recovery or permit issuance

The initiation of administrative or civil proceedings for cost recovery does not bar the criminal prosecution of a responsible party for the associated violation. Similarly, criminal prosecution does not bar administrative or civil collection for cost recovery for the violation giving rise to the criminal prosecution. The existence of an issued permit shall not bar civil or criminal enforcement proceedings.

Section 18-2-15 Professional Emergency Service Contracts

The Fire Chief and Town Manager without compliance with formal contract bidding requirements may enter into professional emergency services agreements with qualified,

licensed “HazMat” service providers for emergency abatement of hazardous materials incidents. Such providers shall be selected on the basis of quoted services rates, qualifications and availability.

Section 18-2-16 Remedies and Non-Exclusive Charges

The remedies provided in this article are not exclusive or in lieu of any other rights and remedies that the town may have at law or equity. The foregoing charges of this article shall not be the exclusive charges that may be made by the Town for the cost and expense of emergency services, but shall only be supplemental thereto. Additional charges may be collected by the Town pursuant to any other law, including, but not limited to, general taxation, fees, other cost recovery rights and special assessment.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.