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 Wickenburg, Arizona," and may be so cited. Such Code may also be cited as the "Wickenburg 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 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.

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*State law reference. For definitions and construction of statutes generally, see ARS, 1-211 to 1-215

Section 1-3-3 Code

The words "the Code" or "this Code" shall mean "The Code of the Town of Wickenburg, 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 Wickenburg, 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; and 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 (3) 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 (2) 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 of 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 Sunday or holiday, it shall be excluded; and when such time is expressed in hours, the whole of 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 Town

Whenever the word "Town" is used, it shall be construed to mean 'the Town of Wickenburg, Arizona,

Section 1-3-28 Week

A "week" consists of seven (7) 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 REFERENCE TO CHAPTERS, ARTICLES, OR SECTIONS: 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 Chapters

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 Sections 1-4-2, 1-4-3 and 1-4-4 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.

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 nor 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 Ord. 1039/4-09

A. Except as provided in Paragraph B (below), any person found guilty of violating any provisions of this Code shall be guilty of a Class One Misdemeanor, and upon conviction thereof shall be punished pursuant to the terms set forth in the Arizona Revised Statutes §13-707, §13-802, and §13-902. 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 12 of this Code constitutes a civil traffic violation. Civil traffic violations are subject to the provisions of Title 28, Chapter 6, Articles 20 and 21, Arizona Revised Statutes and amendments thereto.

C. Violations of this Code for which a civil sanction is imposed shall be treated as a civil offense and hearings and appeals shall be conducted in accordance with the rules of procedure in civil traffic violation cases as set forth in the Arizona Revised Statutes, Rules of Procedure in Civil Traffic Cases.

D. A person who commits a violation of this Code after previously having been found responsible for committing three (3) or more civil violations of this Code within an eighteen (18) month period, whether by admission, by payment of the sanction, by default or by judgment after hearing, shall be guilty of a Class One Misdemeanor. For purposes of calculating the 18-month period under this Subsection, the dates of the commission of the offenses are the determining factor.

E. A Building Inspector or any law enforcement officer authorized to act on behalf of the Town shall have the authority to enforce the provisions of this Code on private property and to issue citations for violations thereof, except that the Building Inspector shall not issue citations for violations of Sections 10-1-3, 10-1-6, 10-1-8, 10-1-10, 10-1-12, 10-1-16, 10-1-20 and 10-1-21 of this Code; traffic violations pursuant to Chapter 12 of this Code or Title 28, Chapter 6, Articles 20 and 21, Arizona Revised Statutes.

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 of Wickenburg except those specially exempted in this Article, now in force and effect are hereby repealed effective at twelve o'clock noon on the nineteenth (19TH) day of April, 1977, 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 affect or modify:

A. Any special ordinance or ordinances regarding franchises, annexations, dedications or zoning.
B. Any ordinance making an appropriation.
C. Any ordinance affecting a bond issue or by which any bond issue may have been authorized.
D. The running of the statutes 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 ordinance 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 nineteenth (19TH) day of April, 1977, except that where a later effective date is provided it shall prevail.

(Pages 6-9 Reserved for future use)

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 Ord. 1031/3-09, Ord. 1173/1-17

The elected officers of the Town shall be six (6) Councilmembers and a Mayor. The Mayor shall hereafter be directly elected by the qualified electors of the Town. The term of Office of the Mayor shall be for four (4) years. The Mayor and Councilmembers shall constitute the Council and shall continue in office until assumption of duties of office by their duly elected successors. Councilmembers shall serve four (4) year overlapping terms in the manner provided by State law. (☑ Ord. 947)

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

Councilmembers shall assume the duties of Office at the Council meeting next following the date of the General Election.

Section 2-1-4 Vacancies In Council

The Council shall fill a vacancy that may occur in the office of Mayor or any Councilmember by appointment until the next regularly scheduled Council election if the vacancy occurs more than thirty days before the nomination petition deadline. If the vacancy occurs thirty days or less before the nomination petition deadline, the vacancy shall be filled by appointment for the unexpired term. (Ordinance 1173 / 1-17)

Section 2-l-5 Compensation

The compensation of elective officers of the Town shall be fixed from time to time by resolution of the Council; provided, that the compensation allowed to the Mayor and Councilmembers shall not exceed that allowed by State Statutes.

Section 2-1-6 Oath Of Office

Immediately prior to assumption of the duties of Office, the Mayor and each Councilmember shall, in public, take and subscribe to the Oath of Office. A newly appointed or elected Mayor or Councilmember may take the Oath of Office on the same day on which the Mayor or Councilmember assumes the duties of the Office of Mayor or Councilmember.

Section 2-1-7 Bond

Prior to taking Office, every Councilmember 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. A person so injured or aggrieved may bring suit on such bond under provisions identical to those contained in Section §38-260 of the Arizona Revised Statutes. Bonds shall be in such sum as shall be provided by resolution and the premium for such bonds shall be paid by the Town. The bond may be in the form of a blanket bond pursuant to Section §9-302 of the Arizona Revised Statutes.

Section 2-1-8 Financial Disclosure Statement

Each member of the Town Council shall file a Financial Disclosure Statement in a form and with such information as provided by resolution of the Council.

ARTICLE 2-2 MAYOR

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

Section 2-2-1 Vice Mayor

Within twenty (20) days after a general election where one or more Councilmembers is elected, the Vice Mayor shall be selected by a majority of the Council, from among its own members for a term to run concurrent with that of the Mayor's term, unless the Vice Mayor's term sooner expires, and shall serve until his successor is appointed and qualified. In the absence of the Mayor, the Vice Mayor shall perform the duties of the Mayor, and when so acting, shall have all of the powers and be subject to all of the restrictions upon the Mayor. The Vice Mayor shall perform such other duties as, from time to time, may be assigned to him by the Mayor or the Council.

Section 2-2-2 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 2-2-3 Powers And Duties Of The Mayor

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

A. He/She shall be the Chief Executive Officer of the Town.

B. He/She shall be the Chairman of the Council and preside over its meetings. He/She may make and second motions and shall have a voice and vote in all its proceedings.

C. He/She shall enforce the provisions of this Code.

D. He/She shall execute and authenticate by his signature such instruments as the Council, or any Statutes, ordinances or this Code shall require.

E. He/She shall make such recommendations and suggestions to the Council, as he may consider proper.

F. He/She shall make appointments to all Town Committees and Commissions subject to the consent of the Council.

G. He/She shall have the power to require any Officer of the Town to exhibit his accounts or other papers and to make reports to the Council in writing on any subject or matter pertaining to the office.

H. He/She shall take command of the Police force of the Town and govern by proclamation in the event of the threat of or occurrence of acts of natural disaster, riot, rout or affray sufficient to constitute great danger to the Town and its residents.

1. In such areas of the Town as shall be designated by the Mayor by proclamation under the conditions set forth in this Section, and within the area within all or any part of the Town so designated by the Mayor, a curfew shall be in effect the hours of each day designated in the proclamation, and all persons living or residing within any such designated area shall go immediately to their homes, and remain there until the curfew is lifted by order of the Mayor, and all other persons not residing within the designated area shall immediately leave.
2. During the imposition of any curfew as set forth in this Section, all business establishments in the designated curfew area, having on their premises intoxicating beverages, shall be closed during the State of Emergency and until the curfew is lifted.

I. He/She shall perform such other duties required by State Statute and this Code as well as those duties required as Chief Executive Officer of the Town.

Section 2-2-4 <u>Failure To Sign Documents</u>

If the Mayor refuses or fails to sign any Ordinance, Resolution, Contract, Warrant, Demand or other document or instrument requiring his signature for five (5) days consecutively, then a majority of the members of the Council may, at any regular or special meeting, authorize the Vice Mayor, or in his 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 <u>COUNCIL ELECTION</u>

2-3-1 Time of Elections
2-3-2 Primary Election
2-3-3 Non-Political Ballot
2-3-4 General Election Nomination
2-3-5 Election to Office
2-3-6 Candidate Financial Disclosure
2-3-7 All Mail Ballot Elections ☑

Section 2-3-1 Time Of Elections

(☑ Ord. 947) Commencing with the year 2006, and every second year thereafter, the date of the general election shall be the first Tuesday after the first Monday in November. Prior to the general election date, the primary election shall be held on the eighth Tuesday before the first Tuesday after the first Monday in November. However, that if such election date falls on a legal holiday the election shall be held on the next succeeding business day. (Ord. 1173/1-17)

Section 2-3-2 Primary Election Ord. 1031/3-09 *Ord. 1163

Any candidate who receives at the Primary Election a majority of all the votes cast at that election for that office shall be declared elected to the office for which that person is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate. If more candidates receive a majority of votes cast than there are seats to be filled for that office, then those candidates who receive the highest number of votes equal to the number of seats to be filled for the office shall be declared elected to that office. The majority of votes cast shall be determined pursuant to Arizona State Law.

Section 2-3-3 Non-Political Ballot

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

Section 2-3-4 General Election Nomination Ord. 1031/3-09

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 those not elected at the primary election and shall be equal in number to twice the number to be elected to any given office or less than that number if there be less than that number named on the primary election ballot. Persons who receive the highest number of valid ballots cast 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 valid ballots cast therefore, then all such persons receiving an equal number of valid ballots cast 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 shall be declared elected.

Section 2-3-6 Candidate Financial Disclosure

Each candidate for Office of 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.

Section 2-3-7 All Mail Ballot Elections ☑

The Town may hold all mail ballot elections as determined for each election by the Council.

☑ Ord. 947-7/05
Ord. 1031/3-09
☑ Ord. 1119/3-13
* Ord. 1163/5-16
Ord 1173/1-17

ARTICLE 2-4 INITIATIVE AND REFERENDUM Ord. 918/5/04

Section 2-4-1 Power Reserved; Time of Election
Section 2-4-2 Number of Signatures
Section 2-4-3 Time of Filing
Section 2-4-4 Sample Ballots and Publicity Pamphlets
Section 2-4-5 Expenditures Required By Initiative Or Referendum; Funding Source

Section 2-4-1 Power Reserved; Time of Election *Ord. 1131

There is reserved to the qualified electors of the Town the power of the initiative and the referendum as prescribed by the State Constitution. Any initiative or referendum matter may be voted on at the next ensuing primary or general election or at a special election called by the Mayor and Council for such purpose pursuant to the State's consolidated elections dates cited in A.R.S. §16-204.

Section 2-4-2 Number of Signatures

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

B. The basis upon which the number of qualified electors of the Town required to file a referendum petition shall be as determined by State law.

Section 2-4-3 Time of Filing

A. Initiative petitions shall be filed at least one hundred twenty (120) days prior to the election at which they are to be voted upon pursuant to A.R.S. § 19-121(D).

B. Referendum petitions shall be filed within thirty (30) days of the adoption of the ordinance or resolution to be referred and approval of the minutes of the Town Council that reflect the action taken by the Council when adopting the measure to be referred. Notwithstanding the foregoing, a referendum petition against the rezoning of a parcel of property shall be filed on the approval by the Town Council of the ordinance that adopts the rezoning or on the approval of that portion of the minutes of the Town Council that includes the Council's approval of the rezoning, whichever occurs first. If the Town Clerk is unable to provide a copy of the ordinance, resolution, or approved minutes at the time of application for an official number or on the same business day of the application, the thirty (30) day period shall be calculated from the first date such ordinance, resolution, or approved minutes becomes available.

Section 2-4-4 Sample Ballots and Publicity Pamphlets

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

A. A publicity pamphlet, containing the entire text of the official ballot, shall be mailed by the Town Clerk to each household within the Town in which a registered voter resides, not less than ten (10) days prior to the election to which the sample ballot pertains.

Ord. 918/5/04
*Ord. 1131/01/14

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 (300) words in length.
4. Arguments must contain the original signature of each person sponsoring it. Arguments submitted by organizations shall be signed by two (2) executive officers of the organization, or if a Political Committee sponsors the argument the Committee's Chairman or Treasurer must sign it. 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 (1) argument for each proposition to be voted upon.
6. Each argument shall be accompanied by a deposit, the amount of which shall be established by council resolution, to offset proportional costs of printing. This requirement shall not be waived on any account. * Ord. 1140

Section 2-4-5 Expenditures Required By Initiative Or Referendum; Funding Source

A. An initiative or referendum measure that proposes a mandatory expenditure of Town revenues for any purpose, establishes a fund for any specific purpose, or allocates funding for any specific purpose must also provide for an increased source of revenues sufficient to cover the entire immediate and future costs of the proposal. The increased revenues may not be derived from the Town General Fund or reduce or cause a reduction in General Fund revenues.

B. If the identified revenue source provided pursuant to Subsection A in any fiscal year fails to fund the entire mandated expenditure for that fiscal year, the Town Council may reduce the expenditure of Town revenues for that purpose in that fiscal year to the amount of funding supplied by the identified revenue source.

Rev. 02/97 Ord. 918/5/04
Ord. 1115/12/12
*Ord. 1140/6-14

PAGE 14 - Reserved for Future Use

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 Order Of Business
2-5-7 Committees And Commissions
2-5-8 Voting
2-5-9 Suspension Of Rules
2-5-10 Sergeant-At-Arms

Section 2-5-1 Regular Meetings Ord 952 Ord. 1160 * 1169

The Council shall meet regularly for the transaction of business on the first and third Monday of each month. If the regular meeting date falls on a holiday, the Council shall meet on the next successive business day. Following the adoption of the Town's tax levy, the next two consecutive Council meetings shall be canceled. Additionally, by motion the Council may cancel or reschedule other council meetings throughout the year, as needed. Meetings shall be at Town Hall, located at 155 N. Tegner Street, Wickenburg, Arizona and shall begin at 5:30 p.m.

Section 2-5-2 Special Meetings

The Mayor may convene the Council at any time after giving at least twenty-four (24) hour notice of such meeting to members of the Council and the general public. The notice shall include the date, hour and purpose of such special meeting. In the case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances.

Section 2-5-3 Meetings To Be Public

A. All official meetings of the Council at which any legal action is taken shall be open to the public. Notice of meetings shall be given in a manner consistent with State Statutes. Upon approval by a majority vote of the Council, the Council may meet in a closed executive session pursuant to the regulations set forth in the Arizona Revised Statutes §38-431.03. (△ Ord. 914)

B. Minutes of executive sessions shall be kept confidential except from members of the Council.

C. No executive session may be held for the purpose of taking any final action or making any final decision.

Section 2-5-4 Quorum

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

Rev. 4-84
△Ord. 914/Rev.2/04
Ord 952/11-18-05
Ord, 1060/12-09
Ord. 1081/12-10
*Ord. 1169/9-16

Section 2-5-5 **Agenda** §

A. 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 Manager shall collect all written reports, communications, Ordinances, Resolutions, Contracts, and other documents to be submitted to the Council, and prepare an agenda according to the order of business and shall furnish each Councilmember, the Mayor, the Clerk and the Attorney with a copy of the agenda and any material pertinent thereto.

B. Notwithstanding the Mayor's discretion of what items to place on the agenda, if two (2) or more Councilmembers request an item to be placed on the agenda, they shall do so in writing to the Town Clerk in accordance with the Council Agenda deadline calendar. The deadline calendar is available in the Town Clerk's office and is attached to the Council Agenda Request Form. This item must then be placed on a future agenda.

C. Except in an emergency (as determined by the Mayor or Town Manager), any person desiring to place an item on the agenda shall prepare and deliver a summary of the issue in accordance with the Council Agenda deadline calendar available in the Town Clerk's office and attached to the Council Agenda Request Form. If the request is made by the Mayor or an employee of the Town, the request shall be delivered to the Town Manager; if the request is made in writing by at least two (2) Councilmembers it shall be delivered to the Town Clerk.

D. All Council forms, reports, communications, ordinances, resolutions, contracts, and other documents to be included in the agenda shall be submitted to the Town Clerk for review in accordance with the Council Agenda deadline calendar available in the Town Clerk's office and attached to the Council Agenda Request Form. The final agenda shall be prepared by the Town Clerk, under the direction of the Town Manager, approved as to form by the Town Attorney and accepted by the Mayor. Council packets shall be posted on the Town website at least twenty-four (24) hours prior to the Council Meeting. The Town Manager shall have the authority to waive the requirements set forth in the Council Agenda deadline calendar if it is determined to be in the best interest of the Town.

E. The agenda format as approved by ordinance of the Town Council shall generally be used for all regular Council Meetings, although variations may be made from time to time. For special meetings, study sessions, and other such events including joint meetings with other entities, retreats, sub-committee meetings and task force meetings. In all instances, shall comply with the Arizona Open Meeting Laws.

F. Agenda items requiring action by Mayor & Council, which are generally routine items, not believed to be controversial, not requiring Council discussion, basic contract renewals, or issues already discussed or heard at a public hearing for which final adoption by resolution or ordinance is needed may be contained in a consent agenda. A single motion and affirmative vote "to approve the consent agenda" will approve all items in the consent agenda, including any resolutions or ordinances included in said consent agenda. Prior to a motion to approve the consent agenda, and upon the request of any Councilmember, any item of the consent agenda can be removed and considered immediately following approval of the remaining items left on the consent agenda. If the consent agenda is not passed, Council may discuss and vote upon each item listed on the consent agenda immediately after the failed vote. The consent agenda, if needed, shall always be the first item under "new business" on a Council Agenda.

§ Ord. 1113/11-120

Section 2-5-6 **Order Of Business** ❋Ord. 895/6-03

The business of the Council shall be taken up for consideration and disposition in the following order unless otherwise directed by a majority of the Council:

A. Call to Order

The Mayor shall take the chair precisely at the hour appointed for the meeting and shall immediately call the Council to order. In the absence of the Mayor, the Vice Mayor shall call the Council to order. In the absence of both the Mayor and Vice Mayor, the Clerk shall call the Council to order and an acting Mayor shall be selected to chair the meeting. Upon the arrival of the Mayor or the Vice Mayor, the Vice Mayor or the acting Mayor shall immediately relinquish the chair upon the conclusion of the business immediately before the Council. The Mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meetings in accordance with the parliamentary rules contained in Robert's Rules of Order unless otherwise specified.

Section 2-5-7 **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 exist at the pleasure of the Council.

Section 2-5-8 **Voting**

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

B. The ayes and nays upon all questions shall be taken and entered in the minutes.

Section 2-5-9 **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 (3/4) of the members present, except that this Section shall not be construed to permit any action that is contrary to State Statutes.

Section 2-5-10 **Sergeant-At-Arms** 🕊Ord. 1081/12-10

A. The Chief of Police or such member or members of the Police Department as the Chief may designate, shall be the Sergeant-At-Arms of the regular and special meetings and work sessions of the Council.

Rev. 4/78
Rev. 6-03/Ord. 895
🕮 Rev.6/05|Ord. 946
🕊Ord. 1081/12-10

1. The Sergeant-At-Arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the regular and special meetings, and work sessions.
2. Upon instructions of the presiding officer, it shall be the duty of the Sergeant-At-Arms, or such other members of the Police Department present, to remove any person from the Town Council Chambers who violates the order of decorum of the meeting. Subject to the discretion of the Sergeant-At-Arms, such person may also be placed under arrest and charged as permitted under Town or Arizona laws.

ARTICLE 2-5A SPECIAL ELECTIONS 🕮

2-5A-1 Purpose; Election Dates

Section 2-5A-1 Purpose; Election Dates

The Council may call a special election for any purpose authorized by law. Special elections shall only be held on oneof the consolidated election dates authorized by /in A.R.S. §16-204 as amended.

ARTICLE 2-6 ORDINANCES, RESOLUTIONS AND CONTRACTS

2-6-1 Prior Approval
2-6-2 Introduction
2-6-3 Adoption
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 passage by 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 comments, suggestions and 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 Manager 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 they shall not be considered.

Section 2-6 3 Adoption

All ordinances, except emergency ordinances, shall require the affirmative vote of a majority of all Councilmembers present at any regular or special Council meeting in order to become effective. Emergency ordinances and resolutions shall require the affirmative vote of three-fourths (3/4) of all the members of the Council.

No ordinance shall be passed unless all Councilmembers present at the meeting are in possession of copies of such Ordinance. *(Ord. 842: 4/5/99)*

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

No ordinance, resolution or franchise shall become operative until thirty (30) days after its passage by the Council and approval by the Mayor, except measures necessary for the immediate preservation of the peace, health or safety of the 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 (3/4) of all the members elected to the Council, taken by ayes and nays.

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

A. 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.
B. Notices of election, invitations for bids, notices of letting contract and notices of a public character specifically authorized by the Council shall be published once in a weekly newspaper
C. In all cases where laws or ordinances are enacted on behalf of a private person, such person shall pay the expenses of any required publication.

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 (3) or more public places within the Town and an affidavit of the person who posted the ordinances shall be filed in the Office of the Clerk as proof of posting.

ARTICLE 2-7 ANNEXATION POLICY

2-7-1 Request Services From Town
2-7-2 Inclusion In Capital Improvement Program
2-7-3 Right To Refuse To Annex Territory
2-7-4 Road Dedication Requirements ♦

♦Ord. 979-5/07
Ord. 960/4-3-06

Section 2-7-1 Request Services From Town

Any person, firm, partnership or corporation which desires to annex real property into the Town may, upon certification by the Town Planner that the property is eligible for annexation, request the Town to provide one (1) or more of the following services without cost or monetary obligation to the applicant. Such services may be furnished at the option of the Town and are as follows:

1. The preparation of all maps and petitions required to accomplish the requested annexation.
2. Personnel costs and attendant fees incurred by the Town to utilize Town employees or other methods to circulate the Petition on behalf of the applicant.
3. Processing applications for a change in the zoning classification, which may include Planned Area Developments on the property being annexed in accordance with State and local statutes, provided that the request for the zone change is applied for simultaneously with the request for annexation and has been completed within two (2) years after the date of application.

Section 2-7-2 Inclusion In Capital Improvement Program

Upon annexation as determined by adoption of the appropriate ordinance, and subject to approval by the Mayor and Council, all existing development within the area so annexed will be included in the Town's current Capital Improvement Program and those street improvements along with sewer and water line extensions normally provided by the Town will be scheduled for construction.

Section 2-7-3 Right To Refuse To Annex Territory

Nothing in this Article shall require the Mayor and Council to annex any territory into the Town.

Section 2-7-4 Road Dedication Requirements

Dedication of private roads in newly annexed territory will be accepted into the Town's streets and roads system in compliance with Section 8-3-9 of this Code.

♦Ord. 979-5/07
Ord. 960/4-3-06

Pages 20 – 22 **RESERVED FOR FUTURE USE**

CHAPTER 3 BOARDS AND COMMISSIONS

ARTICLE 3-1 GENERAL DUTIES

3-1-1 Creation of Boards and Commissions
3-1-2 Membership
3-1-3 Terms and Removal
3-1-4 Compensation; Expenditures; Incurring Debts
3-1-5 Organization
3-1-6 Procedures
3-1-7 Reports

Section 3-1-1 Creation of Boards and Commissions

The Council may create such Boards and Commissions, as it deems necessary. All such Boards and Commissions shall be governed by these general duties, unless otherwise specifically provided in this Chapter.

Section 3-1-2 Membership Ord. 977 *Ord. 1128

Unless otherwise provided in this Chapter, each Board and Commission shall be composed of eight (8) members. One (1) member, non-voting shall be an elected member of the Council, appointed by the Mayor, and subject to approval of the Council. Seven (7) other members shall be citizen members, appointed by the Mayor and subject to the approval of the Council. At least six (6) of the members shall be residents of the Town. All out of town members shall have their primary residence in the municipal planning area of Wickenburg.

Section 3-1-3 Terms and Removal Ord. 999

a. The term of the Councilmember shall be two (2) years. The term of each citizen member shall be three (3) years provided, however, that all initial appointments to Boards and Commissions hereinafter created pursuant to this Article shall allow for staggered terms wherein one-third of the citizen members shall first be appointed to serve a term that shall expire at the next first regular Council meeting in December after the Board or Commission is created; one-third shall first be appointed to serve a term that shall expire at the first regular Council meeting in December of the second year after the Board or Commission is created; and the remaining one-third shall first be appointed to serve a term that shall expire at the first regular Council meeting in December of the third year after the Board or Commission is created. All appointments, except those occasioned by a vacancy before the regular expiration of a citizen member's term, and other than the first appointments, shall thereafter be for the full three-year term. The term of all members shall extend until their successors are appointed and qualified.

b. Commencing on the effective date of this Ordinance, citizen members shall serve no more than two (2) full terms provided however, that the town clerk conducts a public call for applicants and no qualified applicants respond, the Mayor may waive this limitation. *Ord. 1128

c. Vacancies occurring other than through expiration of a term shall be filled by appointment by the Council for the unexpired portion of the term of the office created by the vacancy.

d. The unexcused or unexplained absence of a member from three (3) successive regular or special meetings of the Board/Commission shall be grounds for termination. Absence for any reason from one-half or more of the regularly scheduled meetings of the Board/Commission over a six (6) month period shall operate as an automatic forfeiture of a member's position on the Board/Commission. Staff liaison shall report in writing said absences to the Town Clerk, who will send the member a notice of termination. *Ord. 1128

Section 3-1-4 Compensation; Expenditures; Incurring Debts

A. All members of the Board/Commission shall serve without compensation, except that they may be reimbursed for actual expenses incurred in connection with the duties of their office upon authorization or ratification by the Board/Commission and prior approval of such expenditure by the Council.

Ord. 977/2-07, Ord. 999/5-08
*Ord. 1128/01-14

B. Boards and Commissions established by the Council shall incur no debts nor make any purchases nor enter into any contracts binding the Town. All matters coming before said Boards and Commissions involving the expenditure of money or the making of agreements or contracts shall be referred to the Council.

Section 3-1-5 Organization

Each Board/Commission shall elect a Chairperson and Vice Chairperson, from among its members, who shall serve one (1) year terms concurrent with terms on the Board/Commission or until their successors are duly elected and qualified, and who shall be eligible for re-election. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence or disability. Vacancies shall be filled for the un-expired term by a new election.

Section 3-1-6 Procedures *Ord. 1128

Each Board/Commission, shall meet regularly and will set its own meeting schedule to include meeting date, time and place. Special meetings may be called at any time by the Chairperson, or in his/her absence, by the Vice Chairperson, or by three (3) members making written request to the Town Manager. Four (4) members of the Board/Commission shall constitute a quorum and the affirmative vote of four (4) members shall be required for passage of any matter before the Board/Commission. Each member of the Board/Commission shall have one (1) vote. The Board/Commission shall adopt rules and procedures for the transaction of business, said rules and procedures to be subject to approval of the Council, and shall keep a record of its transactions, findings, recommendations and determinations, which shall be a public record.

ARTICLE 3-2 PLANNING AND ZONING ADVISORY COMMISSION

3-2-1 Creation
3-2-2 Membership, Terms and Removal, Compensation, Organization and Reports
3-2-3 Functions
3-2-4 Duties
3-2-5 Hearings

Section 3-2-1 Creation

There is hereby created the Wickenburg Planning and Zoning Advisory Commission, hereinafter referred to as Commission.

Section 3-2-2 Membership, Terms and Removal, Compensation, Organization and Reports *Ord. 1128

Membership, terms and removal, compensation, organization and reports of the Commission shall be as set forth in Sections 3-1-1 through 3-1-6. If inconsistent with this Section, the specific requirements of this Article shall apply.

Ord. 1099/12-11
*Ord. 1128/01-14

Section 3-2-3 Functions

The function of the Commission shall be to provide advisory services in matters related to Planning and Zoning to the Council, Town officials and Boards and other governmental agencies. The Mayor may request from the Commission a report or recommendation in connection with any matter relating to the present or future development of the Town, pertaining to the use of land and buildings for any purpose, together with all incidental activities associated therewith and commonly known as "Planning and Zoning". The Commission shall have authority to make such investigations, maps, reports and recommendations in connection therewith as it deems desirable. In general, the Commission, its members and officers shall have such authority as may be necessary to enable it to fulfill its functions, promote planning and carry out the purposes of this Article. The Chairperson shall have the power to administer oaths and to take evidence.

Section 3-2-4 Duties

A. The Commission shall undertake and carry out comprehensive studies and surveys of existing conditions and factors of prospective community growth.

B. The Commission shall formulate, recommend for adoption by the Council and, when adopted, develop a Master Plan for the long-term development of the Town and of any land outside the Town, which, in its opinion, bears relation to the planning of the Town. The Master Plan shall be prepared with the general purpose of guiding and accomplishing a coordinated and harmonious development of the Town, which will, in accordance with present and future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the citizens.

C. The Commission shall prepare and recommend for adoption, and transmit to the Council, regulations governing the subdivision of land within the area over which the Mayor and Council have jurisdiction under State law.

D. The Commission shall be responsible for assisting the Council and the administrative staff in preparation of programs for public works improvements and for the financing thereof, and for such other administrative procedures and regulations as may, in its opinion, provide effective means for furthering the objectives of the Master Plan. *Ord. 1128

E. The Commission shall promote public interest in and understanding of the studies and plans it prepares and, to that end, may publish and distribute copies of the Master Plan or any report relative thereto, and may employ such other means of publicity and public information as it may determine with prior approval of the Town Council. *Ord. 1128

F. The Commission shall consult and advise public officials and agencies; public utilities; civic, educational, professional and other organizations and citizens in relation to the Plan it prepares and the implementation or effectuation thereof. *Ord. 1128

Section 3-2-5 Hearings

In carrying out its advisory functions under this Article, the Commission shall review and consider all matters related to its duties and responsibilities. In matters requiring official action by the Council, the Commission shall hold at least one (1) preliminary public hearing, wherein it shall determine the nature of its recommendations by the affirmative vote of at least four (4) of its members, enter its action thereon over the signature of its Chairperson, and forward its recommendation to the Council for a final public hearing and action. Notice of such public hearing shall be published and posted at least fifteen (15) days prior to the holding of such hearing.

*Ord. 1128/01-14

ARTICLE 3-3 AIRPORT ADVISORY COMMISSION

3-3-1 Creation
3-3-2 Membership, Terms and Removal, Compensation, Organization, Procedures and Reports
3-3-3 Functions and Duties

Section 3-3-1 Creation

There is hereby created the Wickenburg Airport Advisory Commission, hereinafter referred to as Commission.

Section 3-3-2 Membership, Terms and Removal, Compensation, Organization, and Procedures*Ord. 1128

Membership, terms and removal, compensation, organization, procedures and reports of the Commission shall be as set forth in Sections 3-1-1 through 3-1-6. If inconsistent with this Section, the specific requirements of this Article shall apply.

Section 3-3-3 Functions and Duties

It shall be the function and duty of the Commission to serve in an advisory capacity in matters of the planning and functioning of the Airport and to promote such interests as are consistent with those of its recommendations, which are duly, adopted by the Council as objectives and policies of the Airport.

ARTICLE 3-4 PARKS AND RECREATION ADVISORY COMMISSION

3-4-1 Creation
3-4-2 Membership, Terms and Removal, Compensation, Organization, Procedures and Reports
3-4-3 Functions and Duties

Section 3-4-1 Creation

There is hereby created the Wickenburg Parks and Recreation Advisory Commission, hereinafter referred to as Commission.

Section 3-4-2 Membership, Terms and Removal, Compensation, Organization, Procedures and Reports *Ord. 1128

Membership, terms and removal, compensation, organization, procedures and reports of the Commission shall be as set forth in Sections 3-1-1 through 3-1-6. If inconsistent with this Section, the specific requirements of this Article shall apply.

Section 3-4-3 Functions and Duties *Ord. 1128 **Ord. 1171

A. Act in advisory capacity to the council and town manager in all matters pertaining to parks and recreation.
B. Assist in the planning of recreational programs for the citizens of the town; promote and stimulate public interest therein.
C. Advise the Parks and Recreation Director with respect to the acceptance of money, personal property or real estate donated or offered to the town for park or recreational purposes.
D. Perform such other duties not inconsistent with this chapter as may be requested by the Council.
E. Serve as the town's Tree Board USA and in such capacity, administer a written plan for the care, preservation, planting, removal and disposition of trees and shrubs in parks, along streets and in other public areas.

*Ord. 1128/01-14 **1171/10-2016

ARTICLE 3-5 ECONOMIC DEVELOPMENT ADVISORY COMMISSION

3-5-1 Creation
3-5-2 Membership, Terms and Removal, Compensation, Organization, Procedures and Reports
3-5-3 Functions and Duties

Section 3-5-1 Creation

There is hereby created the Wickenburg Economic Development Advisory Commission, hereinafter referred to as Commission.

Section 3-5-2 Membership, Terms and Removal, Compensation, Organization, Procedures and Reports *Ord. 1128

Except as otherwise provided herein, membership, terms and removal, compensation, organization, procedures and reports of the Commission shall be as set forth in Sections 3-1-1 through 3-1-6, providing, however, that the Mayor, with consent of the Council, may appoint an ex-officio, non-voting members from Economic Development Organizations serving the Town of Wickenburg to serve as an additional member(s) of the Commission. If inconsistent with Sections 3-1-1 through 3-1-6, the specific requirements of this Article shall apply.

Section 3-5-3 Functions and Duties 🕮

It shall be the function and duty of the Commission to serve in an advisory capacity to the Council in matters of economic and industrial development, to encourage and promote economic and industrial development for the Town, and promote the revitalization of the Downtown consistent with those of its recommendations, which are duly adopted by the Council as objectives, and policies of the Town.

ARTICLE 3-6 BOARD OF ADJUSTMENT

3-6-1 Creation
3-6-2 Membership, Terms and Removal. Compensation and Organization
3-6-3 Procedures
3-6-4 Functions
3-6-5 Powers and Duties
3-6-6 Hearings
3-6-7 Stay of Proceedings
3-6-8 Decisions of the Board
3-6-9 Limitations of the Powers of the Board
3-6-10 Appeals From the Board
3-6-11 Fees

Section 3-6-1 Creation

There is hereby created the Wickenburg Board of Adjustment, hereinafter referred to as Board.

🕮 Ord. 1067/2-10
*Ord. 1128/01-14

Section 3-6-2 Membership, Terms and Removal, Compensation and Organization *Ord. 1128

Membership, terms and removal, compensation and organization of the Board shall be as set forth in Sections 3-1-1 through 3-1-6, except that no member of the Board shall, at the same time, be a member of the Council and except that all members of the Board shall, at all times while serving thereon, be a resident of the Town. If inconsistent with this Section, the specific requirements of this Article shall apply.

Section 3-6-3 Procedures

Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. All meetings shall be open to the public. Four (4) members of the Board shall constitute a quorum and the affirmative vote of four (4) members shall be required for passage of any matter before the Board. Each member of the Board shall have one (1) vote.

Section 3-6-4 Functions

The Board shall hear and decide appeals from the decisions of the Zoning Administrator. Appeals to the Board may be taken by persons aggrieved or by any officer, department, board or bureau of the Town affected by a decision of the Zoning Administrator, within a period of thirty (30) days by filing with the Zoning Administrator and with the Board, a Notice of Appeal specifying the grounds thereof. The Zoning Administrator shall immediately transmit all records, pertaining to the action appealed from, to the Board.

Section 3-6-5 Powers And Duties (A.R.S. § 9-462.06)

The powers and duties of the Board of Adjustment are as follows:

A. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the Zoning Administrator in the enforcement of the Zoning Ordinance.

B. Hear and decide appeals for variances from the terms of the Zoning Ordinance only if, because of special circumstances applicable to the property including its size, shape, topography, location or surroundings the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

C. Reverse or affirm, wholly or partly, or modify the order, requirement, decision of the Zoning Administrator appealed from and make such order, requirement, decision or determination as necessary.

D. Variances: A variance shall not be granted by the Board unless and until:

1. The property owner has filed a written appeal for variance with the Board through the Zoning Administrator and said appeal demonstrates:

   a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
   b. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

c. That the alleged hardships caused by literal interpretation of the provisions of the Zoning Ordinance include more than personal inconvenience and financial hardship and do not result from the actions of the applicant.

d. That granting the variance requested will not confer upon the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures or buildings in the same district.

e. That granting the variance requested will not interfere or injure the rights of other properties in the same district.

2. A public hearing has been held.

3. Notice of public hearing has been posted on the property in question, at the Town Hall, and the owner and applicant or his agent have been notified by certified mail at least fifteen (15) days in advance.

4. The Board finds that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

5. The Board finds that granting of the variance will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Section 3-6-6 <u>Hearings</u>

The Board shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties in interest, and reach its decision within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. Parties to an appeal shall have the right to present their case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination of witnesses as may be required for a full and true disclosure of the facts provided that:

A. The submission of documentary evidence shall not, by reason of its written form, prejudice the interest of any party.

B. The Board shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence and, in furtherance of this policy, may limit cross-examination.

Section 3-6-7 <u>Stay Of Proceedings</u>

An appeal stays all proceedings in the matter appealed from, unless the Zoning Administrator certifies to the Board after the Notice of Appeal is filed with him, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. Upon such certification, proceedings shall not be stayed other than by a restraining order granted by the Board or by a Court of record on application and notice to the Zoning Administrator.

Section 3-6-8 <u>Decisions of the Board</u>

In exercising its powers and duties, the Board may, so long as such action is in conformity with the terms of the Zoning Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as the Board deems necessary, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be required for all decisions.

Section 3-6-9 Limitations of the Powers of the Board

A. The Board of Adjustment may not:
   1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning Ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this Article.
   2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

B. Every decision of the Board shall be based upon findings of fact, and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions required to exist on any matter upon which the Board is authorized to pass under this Article shall be construed as limitations on the power of the Board to act. A mere finding or recitation of the enumerated conditions, unaccompanied by the findings of specific fact, shall not be deemed findings of fact and shall not be deemed in compliance with this Article.

Section 3-6-10 Appeals from the Board

A person aggrieved by a decision of the Board, or a resident or municipal officer may, at any time within thirty (30) days after the filing of the decision in the office of the Board, petition for Special Action for review of the Board's decision. Allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board and for good cause shown, grant a restraining order, and on final hearing may reverse or affirm, wholly or partly, or may modify the decision reviewed.

Section 3-6-11 Fees

A. Upon filing an application or appeal, the applicant shall pay a filing fee to the Town Clerk in accordance with a schedule established by Resolution of the Council and posted in the office of the Zoning Administrator. No part of any such fee shall be returnable after an application is filed and such fee paid.

B. In case of an application for a variance to more than one (1) provision of the Zoning Ordinance, the filing fee shall be the total for all provisions as prescribed by the fee schedule.

C. Payment of the filing fee shall be waived when the appeal is made in behalf of or by the Town.

ARTICLE 3-7 FINANCE COMMISSION *Ord. 1149

SECTION 3-7-1 CREATION

There is hereby created the Wickenburg Finance Advisory Commission; hereinafter referred to as commission.

SECTION 3-7-2 MEMBERSHIP, TERMS AND REMOVAL, COMPENSATION, ORGANIZATION, AND PROCEDURES

Membership shall be composed of six (6) members. One (1) member, non-voting shall be an elected member of the council, appointed by the mayor, and subject to approval of the council. Terms and removal, compensation, organization, and procedures shall be as set forth in sections 3-1-1 through 3-1-6, and shall meet on a quarterly basis. If inconsistent with this section, the specific requirements of this article shall apply.

*Ord. 1149/06-15

SECTION 3-7-3 FUNCTIONS

The function of the commission shall be to provide advisory services to the mayor and council on finance issues, as directed by mayor and council or designee.

SECTION 3-7-4 DUTIES

A. Promote citizen's participation and understanding regarding the financial condition of the town.

B. Conduct research, review and make recommendations on events and issues which may affect the financial status of the town, such as:

- Increasing Revenues
- Cost Saving Methods

C. Other duties as assigned.

ARTICLE 3-8 TRAILS ADVISORY COMMISSION

3-8-1 Creation
3-8-2 Membership, Terms & Removal, Compensation, Organization, Procedures & Reports
3-8-3 Mission Statement
3-8-4 Functions & Duties

Section 3-8-1 Creation

There is hereby created, the Trails Advisory Commission, hereinafter referred to as Commission.

Section 3-8-2 Membership, Terms and Removal, Compensation, Organization, Procedures and Reports *Ord. 1128

Membership, terms and removal, compensation, organization, procedures and reports of this Commission shall be as set forth in Sections 3-1-1 through 3-1-6. If inconsistent with this Section, the specific requirements of this Article shall apply.

Section 3-8-3 Mission Statement

In order to protect the beauty of our desert surroundings, to enhance and protect our western lifestyle, and to promote trail use as an economic enhancement, the mission of the Commission shall be to act as a liaison between the Town Council and the trail-using public in order to establish, protect, and expand an interconnected system of non-motorized and motorized trails in, through and around Wickenburg.

Section 3-8-4 Functions and Duties

It shall be the functions and duties of the Commission to serve in an advisory capacity in matters relating to trails in the Town and to:

A. Advocate to the community that local trails are a "quality of life" component for the residents of the Town and surrounding communities.

B. Promote to the community local trails as economic engines for the businesses and residents of the Town and surrounding communities.

Ord. 1019/11-08
Ord. 1098/12-11 *Ord. 1128/01-14

C. Position the Town as a cohesive trails community throughout the State of Arizona and promote Wickenburg as a trails destination.

D. When deemed appropriate by the Commission, campaign for funding designated for trails from organizations on a county, regional and/or statewide level.
E. Provide the Town Council with a trail inventory to gain patron attention and participation.
F. Develop a trails plan for the Town to be approved by Council.
G. When requested by Council, assist it in locating older trails or finding locations for trails in new developments.
H. When requested by the Council, assist them in making a determination of whether the Town should accept and/or acquire, by gift, bequest or devise, real and personal property of every kind and description in the name of the Town for trail purposes.

I. Conduct fund raising and seek sources of funding to provide for a trail system as identified by the Commission and approved by the Town Council.
J. Consult with the Planning and Building Department to seek trail-related grants and to evaluate the impact of building and development upon existing trails and interconnectivity of the trails system.
K. Assist the Parks, Recreation & Facilities Department in planning outdoor recreational activities to help promote trails and youth activities. *Ord. 1128
L. Assist the Parks, Recreation & Facilities Department in promoting trails and events for all ages and income levels. *Ord. 1128

ARTICLE 3-9 RESERVED *Ord. 1128

ARTICLE 3-10 LIBRARY ADVISORY BOARD ▶ Ord. 111 6

3-10-1 Creation
3-10-2 Membership, Terms and Removal, Compensation, Organization and Reports
3-10-3 Functions and Duties

Section 3-10-1 Creation; Composition

There is hereby created the library advisory board.

Section 3-2-2 Membership, Terms and Removal, Compensation, Organization and Reports *Ord. 1128

Membership, terms and removal, compensation, organization and reports of the commission shall be as set forth sections 3-1-1 through 3-1-6. If inconsistent with this section, the specific requirements of this article apply.

Section 3-10-3 Functions and Duties

A. The library advisory board shall make recommendations regarding short-range and long-range plans to the library director, and serve as a liaison to the community by passing on citizen recommendations and opinions to the library director, town manager, and town council.

B. The library advisory board as needed may make recommendations on library policies including, but not limited to, setting various fees, operating hours, amounts to be charged for overdue books, programs, and promotions of library services to the town council.

▶ Ord. 1116/01-13
*Ord. 1128/01-14

ARTICLE 3-11 YOUTH COMMISSION *Ord. 1129

SECTION 3-11-1 Membership, Terms and Removal, Compensation, Organization, and Procedures – **Ord. 1143 ***1143.1

Members will be Wickenburg residents who are actively enrolled in a public or private high school (including charter and home schools) and membership shall consist of 11 members, terms and removal, compensation, organization, and procedures of this commission shall be as set forth in sections 3-1-1 through 3-1-6. The members shall be selected and ratified by the town council. Unlike other commissions, the terms of the members of the Wickenburg Youth Commission commence and expire in June of each year. Commission vacancies shall be by published in the public school newspaper and posted within the public schools and town hall. If inconsistent with this section, the specific requirements of this article shall apply.

Section 3-11-2 Functions and Duties

A. Evaluate and review problems facing the youth of the town.

B. Facilitate meetings with youth to discuss problems, needs, and suggest improvements for the community.

C. Meet at least quarterly with the Mayor and Town Manager to share ideas and discuss issues, concerns and needed improvements relating to youth issues in the community.

D. Attend town council meetings and participate in vision and goal setting planning related to youth in community.

E. Present recommended improvements to the Town Council and Town Manager of public projects and programs relating to the youth in the community.

F. Assist in planning youth/recreation activities.

G. Advise the Town Council and/or Town Manager on issues forwarded to the Wickenburg Youth Commission for evaluation and advice.

*Ord. 1129/01-14
**Ord. 1143/08-14 ***Ord. 1143.1/12-15

CHAPTER 4 ADMINISTRATION

ARTICLE 4-1 OFFICERS IN GENERAL

4-1-1 Officers
4-1-2 Additional Officers
4-1-3 Bond
4-1-4 Vacancies; Holding More Than One Office
4-1-5 Additional Powers and Duties
4-1-6 Departmental Policies and Procedures Manual

Section 4-1-1 Officers

There are hereby created the offices of Town Manager, Town Attorney and Town Magistrate who shall be appointed by the Council and who shall serve at the pleasure of the Council. 🔑 Ord. 1001

Section 4-1-2 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 4-1-3 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 as determined by resolution, and the Town shall pay the costs of such bond.

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

Any vacancy that shall occur in any office shall be filled by appointment by the Council, provided that one (1) person may hold more than one (1) 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 official, or an otherwise qualified individual not holding office but employed at the pleasure of the Council.

Section 4-1-5 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.

Section 4-1-6 Departmental Policies and Procedures Manual

A. Each officer shall prepare a written manual setting forth policies and procedures governing the administration of his Department. The manual shall not become effective unless it is approved by the Town Manager.

B. Each officer shall prepare an organizational chart or diagram showing the chain of command among all officers and employees within the Department.

C. Nothing in this Section shall be construed to alter the rights of any employee under the adopted Personnel Policies of the Town.

🔑 Ord. 1001/6-08

ARTICLE 4-2 OFFICERS

4-2-1 Town Manager
4-2-2 Town Clerk
4-2-3 Finance Director
4-2-4 Chief of Police (Town Marshal)
4-2-5 Town Attorney
4-2-6 Town Magistrate
4-2-7 Community Services Director

Section 4-2-1 Town Manager

A. Office Created. The office of Town Manager is hereby established and created. The Town Manager shall be appointed by the Council solely 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 he shall hold office at the pleasure of the Council.

B. Eligibility. Residence in the Town of Wickenburg, at the time of appointment, shall not be required as a condition of appointment. No person, elected to membership on the Council, shall subsequent to such election, be eligible for appointment as a Town Manager, until one (1) year has elapsed after he has ceased to be a member of the Council.

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 and shall be conditioned on the faithful performance of the duties imposed on the Town Manager as herein prescribed. The bond fee is to be paid by the Town.

D. Absence. To perform the duties of Town Manager during the temporary absence or disability of the permanent Town Manager, the Town Manager may designate by letter, filed with the Clerk, a qualified administrative officer of the Town. In the event of failure of the Town Manager to make such designation the Council may, by resolution, appoint an officer of the Town to perform the duties of the Manager until the Manager shall have returned or his disability shall have ceased.

E. Removal. In case of his removal by the Council, the Manager shall be furnished with a written notice stating the Council's intention to remove him and the reasons therefore at least thirty (30) days before the effective date of his removal. Within seven (7) days after the delivery to him of such notice, the Manager may, by written notification to the Clerk, request a public hearing before the Council. Thereafter, the Council shall fix a time for the public hearing, which shall be held at its usual place of meeting before the expiration of a thirty (30) day period and at which time the Manager shall appear and be heard. After furnishing the Manager with written notice of intention to remove, the Council may suspend him from duty but his salary shall continue until his removal by resolution of the Council passed subsequent to the public hearing. The Council, in removing the Manager, shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing'; the purpose of which is to allow the Manager publicly to present to the Council his grounds of opposition to removal prior to its official action.

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

G. Compensation. The Manager shall receive such compensation as the Council shall from time to time determine and fix by Ordinance, Resolution, or motion, 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 by him in the performance of his duties, or incurred when traveling on business pertaining to the Town under direction of the Council; reimbursement shall only be made, however, when a verified itemized claim, setting forth the sums expended for which reimbursement is requested, has been presented, approved and allowed by the Council.

H. Powers and Duties. The Town Manager shall be the Chief 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 Executive Officer and the head of the administrative branch of the Town government, and not as a limitation thereon, it shall be the Manager's responsibility and duty and the Manager shall have the power:

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

2. To control, order and give directions to all heads of Departments, subordinate officers and employees of the Town, except elected officers and their respective staffs, magistrate, attorney and auditor, and to transfer employees from one Department to another; and to consolidate or combine offices, positions, Departments or units of the Town, such powers and duties are subject to the following provisions:

   a. That the organizational structure under which municipal services are performed shall be specified in an organizational chart subject to Council approval.

   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.

3. To appoint, discipline and terminate employees of the Town in accordance with the Town's Personnel Rules and Regulations. ✱Ord. 995-3/3/08

4. To exercise control over all Departments, utilities and enterprises of the Town and over all officers and employees thereof, except elective officers and their respective staffs.

5. To attend all meetings of the Council unless excused there from and to attend, or designate a representative to attend, all Board and Commission meetings.

6. To recommend to the Council for adoption such measures and ordinances as is necessary or expedient.

7. To advise the Council at periodic intervals of changes needed in the Town Code.

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

9. To prepare and submit to the Council the annual tentative budget.

10. To purchase or cause to be purchased all supplies and equipment and to make arrangements for contractual services for all of the departments or divisions of the Town.

✱Ord. 995-3/3/08

11. To make investigation into the affairs of the Town, any Department or division thereof, or any contract, or the proper performance of any obligations of the Town.

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

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

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

15. 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.

16. In addition to the elective officers and their respective staffs, the positions of Town Attorney and Magistrate shall be excluded from the scope of the Manager's surveillance; however, the services and facilities of these offices shall be made available to the Town Manager.

17. The Town Manager is authorized to negotiate and settle on behalf of the Town, claims and disputes brought against the Town, its officers, appointees and employees, for an amount not to exceed $25,000.00 subject to the following conditions:
    A. The Town Manager has investigated questions of liability and damages raised by the claim and have determined a reasonable dollar value of the claim.
    B. The claim and any proposed settlement has been reviewed and approved by the Town Attorney.
    C. The settlement is conditioned upon an appropriate written release by the claimant.

I. Orders and Directions. The Council shall deal with the administrative services of the Town only through the Town Manager except for the purpose of inquiry, and neither the Council nor any members thereof shall give orders to any subordinates of the Town Manager.

Section 4-2-2 Town Clerk

A. Office Created. The office of the Town Clerk is hereby created and established. The Town Clerk shall be appointed and removed by the Town Manager. It shall be the duty of the Town Clerk to attend all meetings of the Council unless by request he/she is excused there from by the Manager, and shall be responsible for recording the minutes and presenting them to the Council for approval. Ord. 1001

B. Bond. Before entering upon the duties of office, the Town Clerk shall execute a bond in such amount as is provided by statute, conditioned upon the faithful performance of the duties.

C. Duties. The duties of the Town Clerk shall be as follows:
    1. Signatures, The Clerk shall seal and attest all contracts of the Town and all licenses, permits and such other documents as shall require the formality.
    2. Money Collected. The Clerk shall turn over all money received on behalf of the Town to the Town Finance Director promptly upon receipt of the same; and with such money shall give a statement as to the source thereof.
    3. Accounts. The Clerk shall keep accounts showing all money received and the source and disposition thereof; and such other accounts as may be required by statute or ordinance.

Ord. 1001/6-08

Ord. 1109/7-12

4. Records. In addition to the record of ordinances and other records which the Clerk is required by statute to keep, he/she shall keep a register of all licenses and permits issued and the payments thereof; a record of all physical properties of the Town and the Department or office to which the respective properties are assigned, and such other records as may be required by the Council.

5. Seal. The Clerk shall be the custodian of the Town Seal and shall affix its impression on documents whenever this is required.

6. Documents. The Clerk shall be the custodian of all documents belonging to the Town, which are not assigned to the custody of some other officer and shall comply with the State Records Retention and Destruction procedures.

7. Indices. The Clerk shall keep and maintain a proper index to all documents and records kept by him/her, so that ready access thereto and use thereof may be had.

8. Ex-Officio Collector. The Clerk shall act as and perform all the duties of collector unless and until a separate collector is appointed.

   a. The Clerk shall act as and perform all the duties of municipal elections official unless and until a separate municipal elections official is appointed.

   b. The Clerk shall act as and perform all the duties of jury commissioner unless and until a separate jury commissioner is appointed.

9. Additional Duties. In addition to the duties herein provided the Clerk shall perform such other duties and functions as may be required by statute or ordinance.

Section 4-2-3 Finance Director

A. Office Created. The office of the Town Finance Director is hereby created and established. The Finance Director shall be appointed and removed by the Town Manager. 🔑 Ord. 1001

B. Duties. The duties of the Finance Director shall be as follows:

1. Monitor and oversee the Town accounting system.

2. Has responsibility for implementing the purchasing rules and regulations of the Town, including procurement of Town supplies, services and construction, establishing and maintaining programs for the inspection, testing and acceptance of supplies and services; process vendor claims.

3. Exercise general supervision and control over all inventories of supplies of the Town.

4. Provide every Town Department with a monthly report, which reflects the availability of budgeted funds.

5. Encumber funds.

6. Assist Town Manager in the preparation, adoption, execution and audit of the Town budget.

🔑 Ord. 1001/6-08

7. Oversee federally funded programs and provide liaison and coordinating assistance to participating agencies and Town Departments.

8. Coordinate annual audit activities with contracted auditors.

B. Bond. Before entering upon the duties of office, the Finance Director shall execute a bond in such amount as is provided by statute conditioned upon the faithful performance of the duties of office.

Section 4-2-4 Chief of Police (Town Marshal)

The Chief of Police (Town Marshal) shall be appointed by the Town Manager to perform the duties and assume the responsibilities as set forth in Resolution Number 712. 🔑 Ord. 1001

Section 4-2-5 Town Attorney

The Attorney shall act as the legal counselor and advisor of the Council and other Town officials, and as such shall give his/her opinion in writing when requested. He/She shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the Council. He/She shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the Council. He/She shall return all ordinances and resolutions submitted to him/her for consideration by the Council, with his/her approval or disapproval as to form noted thereon, together with his reasons therefore. He/She 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 4-2-6 Town Magistrate

A. The Town Magistrate shall be the presiding officer of the Police Court and shall be selected by the Council and shall perform those functions necessary to the maintenance of a Police Court as provided by State Statute.

B. In addition to the duties assigned to the Town Magistrate in subsection A of this Section, his or her duties, or those of his or her deputy or deputies, shall also be those of a Juvenile Hearing Officer, pursuant to the authority set forth in A.R.S. § 8-232, as amended by the Laws of 1994.

ARTICLE 4-3 AUDIT

A. The financial records of the Town shall be audited annually by an auditor who shall be a certified public accountant licensed to practice in Arizona.

B. The auditor shall be selected for a period not to exceed three (3) years by the Council and shall present his report on examination of financial statements and any recommendations to the Council.

ARTICLE 4-4 PURCHASING - 🖩

4-4-1 General Authority to Expend Funds ●
4-4-2 Special Council Approval Required
4-4-3 Purchase Orders Required
4-4-4 Delivery Of Purchases
4-4-5 Petty Cash
4-4-6 Emergency Expenditures
4-4-7 Signatures And Ratifications
4-4-8 Quotation or Bid Requirements
4-4-9 Application To Employees And Professional Services
4-4-10 Change Orders
4-4-11 Purchasing From Other Bids
4-4-12 Sealed Bid Procedures
4-4-13 Selection Of Supplier
4-4-14 Imposition of Additional Requirements
4-4-15 Enforcement
4-4-16 Audit Of Records
4-4-17 Surplus Supplies And Equipment✦
4-4-18 Section 3 Compliance For Neighborhood Revitalization Procedures⚐
4-4-19 Conflict Of Interest Procedures⚐
4-4-20 Protest Of Solicitations And Contract Awards χ
4-4-21 Stay Of Procurement During Protest χ
4-4-22 Resolution Of Solicitation And Contract Award Protests χ
4-4-23 Remedies By The Town Clerk And/Or Town Council χ

Section 4-4-1 General Authority to Expend Funds 🖩

A. Council approval of the annual budget shall be construed to include authority for the making of Town expenditures as set forth in said budget.

B. This Article shall apply to all purchases of the Town, including but not limited to petty cash purchases, purchases billed through a vendor, purchases made with Town credit cards, and purchases made with vendor credit cards.

C. All expenditures shall be charged to the appropriate Department budget and shall not cause that budget to be exceeded. It is the responsibility of the Department Head to verify that the expenditure does not exceed the available budgeted funds. The Department Head shall sign the invoice when received to confirm that the goods have been received or that the services have been satisfactorily completed and that the invoice is accurate.

D. To prevent unforeseen events causing a line item within the approved annual budget from exceeding the budget, transfers between line items other than contingencies shall only be made within the same fund as set forth below:

Rev. 3/84/✦Ord. 869
●Rev. 5/05|Ord. 944
⚐Rev. 8/05/Ord. 945
χOrd. 987/8-07
🖩 Ord. 1045/6-09

1. A transfer from a capital item line (9##### accounts) requires Town Council approval prior to incurring the expense.
2. A transfer other than from capital item lines, up to $5,000 within the same fund requires approval by the Town Manager prior to incurring the expense.
3. A transfer over $5,000 within or between funds requires approval by the Town Council prior to incurring the expense.

E. Violation of this Article, including but not limited to the purchase of goods or services or the attempt to enter into contracts in violation of this Article, may result in disciplinary action.

Section 4-4-2 <u>Special Council Approval Required</u>

A. Council approval shall be required for all purchases from a sole source provider and for all purchases of more than fifty thousand dollars ($50,000.00).

B. Council approval shall be required in advance for any expenditure to be charged to any contingency budget or for any transfer from any contingency budget to any specific expenditure account.

Section 4-4-3 <u>Purchase Orders Required</u>

A. The purpose of a purchase order is to create an encumbrance in the general ledger to permit the remaining balance of budgeted line items to be monitored. When the invoice is received by accounts payable from the Department Head, it shall be matched to the applicable purchase order and processed for payment. The encumbrance shall then be replaced by the actual expenditure. Violation of this Article may result in disciplinary action.

B. All Town purchases shall be by written Purchase Order except that purchase orders shall not be required:

1. For contracts approved by the Common Council., except purchase orders shall be required for project specific contracts for budget monitoring purposes.
2. For purchases of less than two hundred dollars ($200.00) upon approval of the Department Head of the Department for which the purchase applies.
3. For utility expenses for gas, electric, water, sewer, sanitation, and telephone services.
4. For vehicle fuel which is required when outside of the Town limits.
5. For independent contractors who have a contract with the Town and provide an invoice for services.

C. Blanket Purchase Orders may be issued on a fiscal year basis to a vendor used at least monthly. This blanket purchase order will be closed out on June 30th of each year.

Ord. 1045/6-09
Ord. 1076/9-10

Section 4-4-4 Delivery Of Purchases

All items purchased with Town funds shall be delivered only to Town-owned property. Under no circumstances shall anything ordered with Town funds or through a Town purchase order be delivered to an employee's home, a Councilmember's home, a volunteer's home, or to any other non-Town owned property.

Section 4-4-5 Petty Cash

A. A petty cash fund may be established at the discretion of the Finance Director in Departments for small purchases not exceeding ninety-nine dollars ($99.00). Purchases using the petty cash fund shall be used only for unanticipated items for an immediate need. The petty cash fund shall not be used to circumvent the requirements of this Article.

B. The custodian of the petty cash fund shall arrange for a secure, locked location for the fund. The fund shall be subject to an audit at any time by the Finance Director or a designated representative. The sum of unused cash and receipts shall equal the original advance.

C. Petty cash shall not be disbursed by the custodian of the petty cash fund without a dated and itemized receipt. All receipts shall be signed by the custodian's Department Head with the budget line to be charged. The receipt shall be submitted within seventy-two (72) hours of purchase. No expenditures from petty cash shall cause the budget line to be exceeded.

D. Petty cash funds shall not be used to cash checks, to make personal loans or for salary advances.

E. A request to replenish petty cash funds shall be made to Accounts Payable by the 15th day of every month, unless no disbursements have been made since the last request.

Section 4-4-6 Emergency Expenditures

Nothing in Article 4-4 shall be construed to prohibit emergency expenditures. The requesting Department Head shall be responsible for determining the validity of all emergency purchase requests for goods or services. The Town Manager shall review the request and may authorize the emergency purchase without complying with the procedures of this Article. However, when an emergency expenditure is made under the authority of this Section, a full written report specifying the nature of the emergency and the amount of the expenditure shall be made to the Council at the next regularly scheduled Council meeting. Invoices for the purchase of emergency goods or services shall be signed by both the requesting Department Head and the Town Manager.

Section 4-4-7 Signatures and Ratification

A. All checks for expenditures of Town monies shall bear two (2) signatures, one of either the Town Manager or Town Clerk, and the other of either the Mayor or Vice Mayor. A facsimile signature plate safeguarded by the Finance Department shall be utilized to affix all such signatures.

B. All agreements and contracts of the Town approved by the Town Council shall be signed by the Mayor or Vice Mayor, the Town Clerk, and the Town Attorney.

C. All agreements and contracts of the Town not requiring Town Council approval shall be signed by the Town Manager or his designee.

D. Copies of all Town expenditures shall be provided to the Town Manager, Mayor, and Common Council at least one (1) time each month including, but not necessarily limited to the monthly check register and invoices paid report.

Ord. 1045/6-09

Ord. 1121/05-13

Section 4-4-8 Quotation or Bid Requirements

A. Except as provided in Sections 4-4-9 through 4-4-15 of this Article, prior to purchases of goods or services, quotations or bids shall be sought according to the following schedule:

DOLLAR RANGE QUOTATION OR BID REQUIREMENTS	
$0 - $4,999.99	No quotations or bids required.
$5,000 - $9,999.99	Telephone Quotations shall be solicited. A minimum of three (3) when feasible.
$10,000 - $24,999.99	Written Quotations shall be solicited and selection approved by Town Manager. A minimum of three (3) when feasible.
$25,000 - $49,999.99	Sealed Bids shall be solicited through newspaper advertising and the vendor list maintained by the Town Clerk's Office with a design towards obtaining the greatest number of bidders and bid responses. Selection shall be approved by the Town Manager.
$50,000 and Above	Sealed Bids shall be solicited through newspaper advertising, from the vendor's lists maintained by the Town Clerk's Office with a design towards obtaining the greatest number of bidders and bid responses. Upon receipt of the bids, the responsible Department Head shall prepare his/her written recommendation to the Common Council for award of the contract.

B. Notwithstanding the provisions of Subsection A of this Section, no public official, relative of a public official or employee shall supply goods or services to the Town unless pursuant to a sealed bid process, except where such purchase does not exceed three hundred dollars ($300.00) in a single transaction, and the aggregate total of all transactions for the fiscal year does not exceed one thousand dollars ($1,000).

C. Notwithstanding the provisions of Subsection A of this Section, a purchase from a sole source supplier of goods and services may be made without receiving quotations or competitive bids, provided that a written report from the requesting Department Head explaining the sole source request, is signed by the Town Manager as being approved, and is then approved by Council. A sole source supplier means a vendor who is the only acceptable vendor able to furnish a certain good or service. Once approved by Council, the Department Head may proceed with the regular purchase procedure.

D. Notwithstanding, the provisions of Subsection A of this Section, because fuel prices fluctuate daily and purchases need to be made quickly, purchases of fuel for the Airport or fuel facility will only require two (2) written quotations.

E. When evaluating quotes and bids, except for public works projects as defined in title 34 of the Arizona revised statutes, a local preference will be used by deducting the local transaction privilege taxes (TPT) also known as sales tax from quotes received from local businesses.*

1) A local business is defined as one having a fixed location within the town limits.

2) To qualify for local preference, the local business must have a business license with the town of Wickenburg and a TPT license with the Arizona department of revenue.

a. Both of these licenses must be in place for a minimum of one year prior to the date of the quote.

b. Any reports or payments required under both of these licenses must be current.

Ord. 1045/6-09

Ord. 1121/05-13 *Ord.1126/12-13

F. A business from which the town has previously not purchased goods or services shall complete a W-9 form, which shall be included with the business' bid or quote. **Ord. 1146

G. All businesses performing services on town-owned property shall provide proof of insurance coverage in accordance with the town insurance requirements, set by resolution, prior to the town issuing a purchase order.**Ord. 1146

Section 4-4-9 <u>Application to Employees and Professional Services</u> 🖩 🗀 *

A. Nothing in Sections 4-4-8 through 4-4-10 shall be construed to apply to the hiring of Town employees or for independent contractors providing professional services for a monthly fee.

🖩 Ord. 1045/6-09
🗀Ord. 1121/05-13 *Ord.1126/12-13
**Ord. 1146/07-15

B. Unless required by Council, the bidding and other requirements of Sections 4-4-8 through 4-4-10 shall not apply to professional services. For purposes of this Section, "professional services" is a field for which a license or certification is required by Federal or State Law.

Section 4-4-10 Change Orders *

A. Change orders which do not cause the project to go over the budget previously approved by council may be approved and executed by the Town Manager.

B. Change orders which will cause the project to go over the budget previously approved by council require approval of the Council.

Section 4-4-11 Purchasing From Other Bids

Notwithstanding any other provision of this Article, the Town, by and through its authorized personnel, may purchase any goods or services for which funds have been duly appropriated, regardless of the amount of purchase from, or off of, any other governmental entity's master or specific bidding list if, in the opinion of the Town Manager, a separate bidding process is not likely to result in a lower price for such goods or services.

Section 4-4-12 Sealed Bid Procedures

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

B. Sealed bids shall be received, on behalf of the Council, by the Town Clerk. Each bid shall be identified, on its envelope, as a bid. Bids shall be opened in public at the time and place set in the call for bids and the call for bids shall include notice of the time and place of the opening of bids.

C. Awarding of contracts based upon sealed bids shall be by Council action, and the Council shall retain the right to reject any or all bids. Notice of the provisions of this Section shall be included in the call for bids.

Section 4-4-13 Selection of Supplier

Purchase shall be from suppliers offering the lowest prices, except that the Town may purchase at other than a lowest offered price for reasons including quality, ability of a supplier to furnish the goods or services quoted or bid, or compatibility with existing equipment, structures, or ongoing service requirements.

Section 4-4-14 Imposition of Additional Requirements

The Town Manager may, at his discretion, in matters involving purchases made under his authority, impose requirements for the seeking of quotations or bids according to standards more stringent than those of Sections 4-4-6 and 4-4-8.

Section 4-4-15 Enforcement

A. It shall be the duty of the Town Clerk to enforce the provisions of this Article.

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

C. The records of payments for goods or services shall include written verification that the provisions of this Article have been met.

Section 4-4-16 Audit of Records

The annual audit of municipal financial records shall include an examination of records necessary under this Article.

Ord. 1045/6-09

*Ord.1126/12-13

Section 4-4-17 Surplus Supplies and Equipment

All Departments and offices shall submit to the Finance Director, at such time, and in such time, and such form as he shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Finance Director or designee Officer shall dispose of such supplies and equipment pursuant to ARS §9-402. 🗀

Section 4-4-18 Section 3 Compliance For Neighborhood Revitalization Procedures 🏳

A. PURPOSE: To establish procedures for procuring small, minority and women owned business enterprises and maintain compliance with Section 3 to ensure that the employment and other economic opportunities generated by federal financial assistance for Housing and Community Development programs shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing. Those considered as Section 3 residents reside in public housing and low income persons who live in the area where a HUD-assisted project is located.

B. PROCEDURES: It is a national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

1) Including qualified small and minority businesses on solicitation lists.
2) Assuring that small and minority businesses are solicited whenever they are potential sources, and to the greatest extent possible that these businesses are located within the metropolitan area.
3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
4) Where the requirement permits, establishing delivery schedules which will encourage participation by small minority businesses.
5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprises of the Department of Commerce and the Community Services Administration as required.
6) Grantees shall take similar appropriate action in support of women's enterprises.
7) To the greatest extent feasible, opportunities for training and employment be given to low and moderate income persons residing within the metropolitan area.
8) If an individual or business feels the Town does not comply with Section 3, there is a complaint process available to Section 3 residents and businesses. They may file complaints if they feel a violation of Section 3 requirements has occurred where a HUD-funded project is planned or underway. To file a complaint, in writing, to your local HUD Office or to: the Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 7TH Street SW, Room 5100, Washington, D.C. 20140-2000. A written complaint should contain:
    a. Name and full address of person filing the complaint; and
    b. Name and full address of the subject of complaint (HUD recipient or contractor); and,
    c. Description of acts or omissions in alleged violation of this Section.

Section 4-4-19 Conflict Of Interest Procedures 🏳

A. PURPOSE: All Town employees shall not engage in on or off duty conduct which constitutes a conflict of interest with their Town duties and responsibilities. No employee shall have a financial interest in any sale to the Town of land, materials, supplies, equipment or services, unless the sale complies with the bidding requirements of the conflict of interest statutes of the State of Arizona. Contracts or sales made by a person or entity with knowledge, express or implied, of a violation of this Section shall be voidable by the Town Manager. 🗀

Rev. 4/84 | ✦Ord. 869
🏳Rev. 8/05/Ord. 945
🗀Ord. 1076/9-10

B. PROCESS:

1. CONFLICTS OF INTEREST:
   a. No employee of the Town shall supply to the Town equipment, material, supplies or services, unless pursuant to an award of a contract after a public competitive bid. A request for proposals or quotes shall not be considered a competitive bid. 🗀
   b. Any employee of the Town who has, or whose relative has, a substantial interest in any contract with, sale to, purchase from, or service to the Town shall notify the employee's Department Head or Town Manager. The Department Head or Town Manager shall require the employee to file a notice of such interest with the Town Clerk and a copy of such notice with the Town Attorney and Town Manager. The Department Head or Town Manager shall establish procedures to ensure the employee does not participate in any manner in such contract, sale, purchase or service.
   c. Any employee of the Town who has, or whose relative has, a substantial interest in any decision or action of the Town, other than as an employee, shall notify the employee's Department Head or Town Manager. The Department Head or Town Manager shall require the employee to file a notice of such interest with the Town Clerk and a copy of such notice with the Town Attorney and Town Manager. The Department Head or Town Manager shall also establish procedures to ensure the employee does not participate in any manner in such a decision.
2. PROHIBITED ACTS:
   a. No employee, or former employee who has left employment within the preceding twelve (12) months, may represent another person for compensation before the Town Council or any Board, Committee, Task Force or Commission of the Town concerning any matter with which such former officer or employee was directly concerned, and in which he/she personally participated during his/her employment or service.
   b. During the period of employment with the Town and for two (2) years thereafter, no employee shall disclose or use, for the employee's personal profit without appropriate authorization, any information acquired by the employee in the course of the employee's official duties which information has been clearly designed by the employer as confidential or which is declared confidential by law.
   c. No employee may use, or attempt to use, the employee's position with the Town to secure from any person any valuable thing or valuable benefit for the employee to which the employee would not ordinarily be entitled for the performance of the employee's duties with the Town.
   d. No employee may receive or agree to receive, directly or indirectly, compensation other than the employee's salary from the Town for any services rendered, or to be rendered, by the employee which are within the employees duties as a Town employee.
   e. No employee may receive or agree to receive, directly or indirectly, compensation other than the employee's salary from the Town for any service rendered, or to be rendered, by the employee personally in any case, proceeding, application, or other matter which is pending before the Town Council or any Board, Committee, Task Force, or Commission of the Town.
3. VIOLATIONS:
   a. Any employee found guilty of any violation of this procedure shall be subject to punitive disciplinary actions up to and including termination.
   b. Any violation of this procedure with the knowledge, expressed or implied, of the person, corporation or other entity contracting with the Town shall render the contract voidable by the Town.
4. CONSTRUCTION:
   a. This directive shall be construed in compliance with the conflict of interest statutes contained in the Arizona Revised Statutes, A.R.S. §38-501, et. seq.
   b. The Town Attorney's office defines and provides interpretation of prohibited Conflicts of Interest in compliance with Arizona Revised Statute, A.R.S. §38-501, et seq.

🏳Rev. 8/05/Ord. 945
🗀Ord. 1076/9-10

Section 4-4-20 <u>Protest Of Solicitations And Contract Awards</u> χOrd. 987/8-07

A. Any interested party may protest a solicitation, a determination that a purchase or contract is not required to be bid, or the award of a contract.

B. The interested party shall file the protest, in writing, with the Town Clerk's office, and shall include the following information:
   1) name of person filing protest; and,
   2) name of the business (if applicable) filing the protest; and,
   3) full address (both physical and mailing if different), telephone and fax number of the protesting party; and,
   4) original signature of the protesting party or the protesting party's representative; and,
   5) identification of the solicitation or contract number; and,
   6) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and,
   7) The form of relief being requested.

C. If the protest is based upon alleged improprieties in a solicitation that are apparent before the deadline for submittal, the protesting party shall file the protest before the deadline for submittal of a bid.

D. In cases other than those covered in Subsection C, the protesting party shall file the protest within ten (10) calendar days after the Town Clerk conducts the public bid opening as long as the bid file is available for public inspection.

E. The protesting party may submit a written request to the Town Clerk for an extension of the time limit for protest filing set forth in Subsection D. The written request shall be submitted before the expiration of the time limit set forth in Subsection D – ten (10) calendar days and shall set forth good cause as to the specific action or inaction of the Town that resulted in the protesting party being unable to submit the protest within the ten (10) calendar days. The Town Clerk shall have the authority to approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing but shall not be for longer than twenty (20) additional calendar days.

F. The Town Clerk shall immediately give notice of protest to all bidders.

Section 4-4-21 <u>Stay of Procurements During Protest</u>

A. If a protest is filed before the deadline for submittal of bids, before the award of contract, or before the performance of a contract has begun, the Town Clerk shall, in writing, make a written determination to either:
   1) Proceed with the solicitation, award or contract process; or,
   2) Recommend to the Town Council to stay all or part of the procurement if there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the Town.

B. Upon determination, the Town Clerk shall provide the protesting party, and all other interested parties with a copy of the written determination.

Section 4-4-22 <u>Resolution of Solicitation and Contract Award Protests</u>

A. Only the Mayor and Common Council have the authority to resolve a protest.

B. After the determination has been made pursuant to Subsection A, the Town Clerk shall issue a written decision letter to the protesting party within seven (7) days after a Council meeting has been held and determination been made regarding a protest filed under Section 4-4-18. The Town Clerk shall furnish the decision to the protesting party by certified mail, return receipt requested or by any other method that provides evidence of receipt with a copy to the Town Manager and Town Council.

C. The Town Council may request one (1) extension not to exceed thirty (30) days if the reason(s) can be justified.

D. If the Town Council fails to hear and issue a decision within sixty (60) days, the protesting party may proceed as if the Town Clerk had issued an adverse decision.

χOrd. 987/8-07

Section 4-4-23 Remedies by the Town Clerk and/or Town Council

A. If the Town Clerk and/or Town Council sustains a protest in whole or in part and determines that a solicitation, a determination of not susceptible for award, or contract award does not comply with this Article 4-4, the Clerk shall assist Council in implementing an appropriate remedy.

B. In determining an appropriate remedy, the Town Clerk and/or Town Council shall consider all the circumstances surrounding the procurement or proposed procurement including:
   1) The seriousness of the procurement deficiency;
   2) The degree of prejudice to other interested parties or to the integrity of the procurement system;
   3) The good faith of the parties;
   4) The extent of performance;
   5) The costs to the Town;
   6) The urgency of the procurement;
   7) The impact on the Town's mission; and,
   8) Other relevant issues.

C. The Town Clerk and/or Town Council may implement any of the following appropriate remedies:
   1) Decline to exercise an option to review under the contract;
   2) Terminate the contract;
   3) Amend the solicitation;
   4) Issue a new solicitation;
   5) Award a contract consistent with this Article 4-4; or,
   6) Render such other relief as determined necessary to ensure compliance with this Article 4-4.

ARTICLE 4-5 CLAIMS

4-5-1 Presentation of Claims
4-5-2 Submission to Council; Audit
4-5-3 Drawing of Warrants
4-5-4 Payment of Warrants

Section 4-5-1 Presentation of Claims

Every person having a claim against the Town, except those referred to in the provisions of this Article shall present a demand therefore, in writing, to the Council, verified by the affidavit of himself or his agent. Such demand shall state minutely what the claim is for and specify each item and the date and amount thereof. The verification shall state that said amount is justly due, that there are no offsets or credits to the same' and that the person is not in any way indebted to the Town. No demand shall be allowed in favor of any person who is indebted to the Town without first deducting such indebtedness. Nothing herein shall be held to apply to demands for official salaries, which by express provision of law, are made a demand against the Town.

Rev. 4/84 | ✦Ord. 869
Rev. 8/05/Ord. 945

χOrd. 987/8-07

Section 4-5-2 Submission to Council; Audit

Claims shall be filed with the Clerk and shall be passed upon and audited by the Council at their next regular meeting and either allowed, or rejected in whole or in part, as the Council may deem proper. No demand shall be allowed in favor of any officer whose accounts have not been allowed and approved, or who has neglected to make his official returns or report, or who has neglected or refused to perform any duty required of him. The Council may examine on oath, or otherwise, the person presenting such claim or any other person, in order to ascertain the necessary facts in determining the allowance or rejection thereof.

Section 4-5-3 Drawing of Warrants

When any amount is a1lowed as a demand against the Town, a warrant shall be drawn on the Treasurer therefore signed by the Mayor and the Clerk, which warrant shall be delivered to the party in whose favor the warrant is drawn. All warrants shall be made payable to the order of the person entitled thereto, and must be properly endorsed by him before presentation to the Treasurer. Such warrant may be presented by the assignee, executor or administrator of the person to whom the same is drawn.

Section 4-5-4 Payment of Warrants

Warrants must specify the liability for which they are drawn, when the same accrues and must be paid in the order of presentation. If the fund upon which such warrant is drawn is insufficient to pay the same, such warrant shall be registered by the Treasurer and thereafter paid in the order of its presentation when such fund shall become sufficient.

ARTICLE 4-6 CIVIL PREPAREDNESS AND DISASTER ORGANIZATION

4-6-l Establishment
4-6-2 Functions
4-6-3 Local Emergency

Section 4-6-l Establishment

The Town Manager is hereby authorized and directed to create a civil preparedness organization. The Director of the Civil Preparedness Organization shall be the Town Manager.

Section 4-6-2 Functions

The functions of the civil preparedness organization are to establish and provide for emergency services within the Town in accordance with the State Emergency Plans and Programs, and Arizona Revised Statutes Title 26, Chapter 2 is incorporated herein by reference to further define the functions of the civil preparedness organization and its Director.

Section 4-6-3 Local Emergency

The Mayor is hereby authorized to declare by proclamation an emergency or a local emergency to exist in accordance with the provisions of Arizona Revised Statutes § 26-311.

ARTICLE 4-7 INDEMNIFICATION OF OFFICERS, EMPLOYEES, AND COUNCILMEMBERS

4-7-1 Definitions
4-7-2 Indemnification
4-7-3 Action Other Than by or in the Right of Town
4-7-4 Criminal Proceedings
4-7-5 No Presumption Created
4-7-6 Action by or in the Right of Town
4-7-7 Negligence and Misconduct
4-7-8 Success on the Merits
4-7-9 Determination by Council
4-7-10 Indemnification not Exclusive Remedy

Section 4-7-1 Definitions

1. "Person" includes any officers, employees, Councilmembers and members of Committees, Commissions, and Boards of the Town of Wickenburg.

2. "Proceedings" includes any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administered or investigated.

Section 4-7-2 Indemnification

Any person made a party or threatened to be made a party to any proceeding by reason of the fact that said person is an officer, employee or Councilmember of Wickenburg shall be indemnified as hereinafter set forth.

Section 4-7-3 Action Other Than by or in the Right of Town

If said proceeding is one other than an action by or in the right of the Town, said person shall be indemnified against his expenses, including attorney fees, and including judgments, fines, amounts paid in settlement actually and reasonably incurred by him in connection with such proceeding.

Section 4-7-4 Criminal Proceeding

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

Section 4-7-5 No Presumption Created

With respect to indemnification under Section 4-7-3 or 4-7-4 above, a termination of the proceeding by judgment, order, settlement, conviction, or upon a plea of polo contendere or its equivalent, shall not, by itself, create a presumption that said 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 4-7-6 Action By or In the Right of Town

If said proceeding is one by or in the right of the Town to procure a judgment in the Town's favor, said person shall be indemnified against his expenses, including attorneys fees, but excluding judgments and fines, and except as hereinafter set forth, amounts paid in settlement actually and reasonably incurred by him in connection with the defense or settlement of such proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Town.

Section 4-7-7 Negligence and Misconduct

No indemnification under Section 4-7-6 shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Town.

Section 4-7-8 Success on the Merits

To the extent that a person covered by this Article has been successful on the merits or otherwise in defense of any proceeding covered by this Article or in the defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorneys fees, actually and reasonably incurred by him in connection therewith.

Section 4-7-9 Determination By Council

Any indemnification made pursuant to this Article shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the officer, employee or Councilmember is proper in the circumstances because he has met the applicable standard of conduct set forth in this Article. Such determination shall be made by any of the following:

1. By the Town Council by majority vote of a quorum consisting of Councilmembers who were not party to the proceeding.

2. If a quorum is not obtainable, then by a written opinion of independent legal counsel acquired by majority of the disinterested Councilmembers for that purpose.

3. If there are no disinterested Councilmembers, then by a declaratory judgment action brought in the Superior Court, declaring the rights of the officer, employee or Councilmember to be indemnified pursuant to this Article.

Section 4-7-10 Indemnification Not Exclusive Remedy

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled. The indemnification provided by this Article shall be supplemental to and excess to any valid and collectible insurance coverage.

ARTICLE 4-8 DISPOSAL OF LOST, UNCLAIMED, OR CONTESTED PROPERTY /✦Ord. 869

4-8-1 Definitions
4-8-2 General
4-8-3 Notice Of Disposition
4-8-4 Service and Publication of Notice of Disposition
4-8-5 Award of Lost Property to Finder
4-8-6 Disposal of Unclaimed Property
4-8-7 Sale at Public Auction
4-8-8 Disposal and Destruction of Firearms, Liquor, Perishables
4-8-9 Disposal of Contested Property
4-8-10 Affidavit; Records

Section 4-8-1 Definitions

The following words, terms and phases, when used in this article, shall have the meanings as set forth below:

1. "Intangible property" shall have the definition as described in ARS § 44-301.
2. "Personal property" means property of every kind, except real property and intangible property.
3. "Spirituous liquor" means any beverage or liquid containing more than one half of one percent of alcohol volume.
4. "Stolen property" means money or property to which the owner has been lawfully deprived of possession and which has been taken into police custody pursuant to a commission of any crime as defined by the laws of the State or the Town.
5. "Weapon" means any firearm or any other instrument capable of discharging a dangerous or deadly object, or any other instrument capable of inflicting bodily injury.

Section 4-8-2 General

All unclaimed, lost or abandoned money or personal property coming into the possession of the Town shall be disposed of by the Police Department pursuant to this article, except:

1. Evidence obtained for use in a criminal proceeding is subject to any additional conditions of disposal under Rule 28-2, Rules of Criminal Procedures;
2. Property seized as a forfeiture shall be disposed of under ARS § 13-4301 et seq.;
3. Illegal drugs not used for evidence or as forfeitures shall be disposed of under ARS § 13-3413;
4. Intangible property and unpaid wages shall be disposed of under ARS § 44-301 et seq.;
5. Abandoned and unclaimed vehicles shall be disposed of under ARS § 28-4839 et seq.

Section 4-8-3 Notice of Disposition

Within 30 days after receiving possession of unclaimed money or personal property, the Police Department shall serve a notice of disposition containing the following information:

1. A brief description of the property. The name and address of the owner or finder of the money or property, if known.
2. A statement that the owner or finder must claim and take possession of the money or property no later than 90 days following the date of the notice, or else the Police Department may destroy, donate to charity, or sell the property at a public auction approved by a petition to the court.

Section 4-8-4 Service and Publication of Notice of Disposition

A. Notice of disposition shall be sent by mail to the last known address of any owner or finder. Service shall be complete upon mailing. If the name and address of the owner or finder are not known, notice shall be served by publishing the notice of disposition in a newspaper published in the Town, and display of said notice on the public bulletin board of the Town at 155 North Tegner Street.

B. If the property is valued at $25.00 or more, the notice shall be sent by certified mail, otherwise, the notice may be sent by regular mail.

Section 4-8-5 Award of Lost Property to Finder

A. Lost money or property will be awarded to the finder where:

1. The owner has failed to claim and obtain possession of the money or property, and at least 90 days have expired since the date the notice of disposition was served; and

2. The finder claims and obtains possession within the reasonable time required by the Town; and
3. The money or property is not contraband; and
4. For money or property valued at more than $25.00, the Town files a petition with the Superior Court describing the property; the date, location and circumstances under which the money or property was originally found and delivered to the Town, and reasonable efforts made to locate and notify the owner. The court may order escheatment to the finder when all the conditions of this section are met.

B. The finder's claim to ownership of the money or property is inferior to the true owner's claim. Upon delivery of property to the finder, the Town shall have no further interest in or obligations with respect to the property. The Town shall, however, provide the name and address of finder and the location of the property, if known, to any person making a satisfactory claim of proof of ownership subsequent to the delivery of the property to the finder.

C. No Town employee may be awarded any lost money or property discovered while engaged in duties of office or employment for the Town.

Section 4-8-6 Disposal of Unclaimed Property

Money or property remaining unclaimed in the possession of the Town, after notice of disposition has been served and expiration of the claim period, may be disposed of as follows:

1. Money or property determined by the Department to have a value of $25.00 or less may be donated to a nonprofit charity, destroyed, or kept by the Town for its use.

2. When at least 90 days have passed since the notice of disposition has been served, the Town shall file a petition with the Superior Court for disposal of any money or property valued at more than $25.00, describing the money or property, location and circumstances under which it was originally found, and reasonable efforts made to locate and notify the owner. The Town may request in its petition that unclaimed money be deposited in the General Fund of the Town, that unclaimed property be sold at public auction as surplus property, that useful items be retained for Town use, or that illegal or non-useful items be destroyed. Upon satisfaction of such conditions, the Court shall order escheatment and may order dispositions requested by the Town.

Section 4-8-7 Sale at Public Auction

A. Upon obtaining an Order of escheatment authorizing sale of unclaimed property at a public auction, the Town shall sell such property following Town procedures for disposal of surplus property pursuant to Section 4-4-15 of the Town Code and the bidding and notice procedures set forth in ARS § 9-402. Property shall be sold to the highest bidder for cash. Some or all of the property may be sold subject to a minimum bid, which shall be known in advance of bidding. Upon delivery to any purchaser of any property sold, the Finance Department shall execute to purchaser a certificate of sale.

B. All property remaining unsold after being offered for sale may be deemed having no value and may be disposed of pursuant to Subsection 4-8-6(1).

C. Proceeds from the sale shall be given to the Town Finance Director or his designee and deposited immediately into the General Fund of the Town.

Section 4-8-8 Disposal and Destruction of Firearms, Liquor, Perishables

A. Legal firearms, weapons, ammunitions, explosives and hazardous materials shall be disposed of pursuant to the general procedures set forth herein, except that the Town shall not sell any such items at a public auction. If the Police Department has no use for the legal firearms, weapons, ammunitions, explosives or hazardous materials remaining unclaimed, they shall be destroyed.

B. Illegal firearms, weapons, ammunitions, explosives and hazardous materials shall be destroyed.

C. Confiscated liquors not used as evidence, not claimed by the rightful owner, or not converted for Police training purposes, shall be destroyed.

D. Perishable items not claimed by the owner may be destroyed 24 hours after the Town has obtained possession thereof.

Section 4-8-9 Disposal of Contested Property

A. Money or property in the possession of the Police Department shall be disposed of pursuant to this Section if;

1. The department has reason to believe it was stolen; and
2. Two or more persons claim or may claim ownership or the right to possession; and
3. The money or property is not required for use as evidence in any legal proceedings; and
4. The Town makes no claim for the money or property.

B. A Hearing Officer will be appointed by the Town Manager. The Hearing Officer will not be a member of the Police Department.

C. The Police Department shall file a petition for resolution of claims for contested property with the Hearing Officer describing:

1. All the facts listed in paragraph A.
2. The name and address of each claimant.
3. An accurate description of the property including any identifying marks or serial numbers, the location where seized, and the person from whom seized.

D. The Hearing Officer shall schedule a hearing on the matter. The Police Department shall serve upon each claimant, by certified mail, written notice of the hearing date, time and locations, along with a copy of the petition.

1. The hearing date shall be held at least 30 days after the date of service.
2. Service shall be made to the last known address of each claimant, and complete upon receipt.
3. Proof of service on each claimant shall be delivered to the Hearing Officer.

E. The failure of any person to appear at the hearing shall constitute a waiver of any claim against the Town for the property and the Hearing Officer may enter a ruling consistent therewith.

F. The hearing shall be informal. The technical rules of evidence shall not apply. The Hearing Officer shall allow testimony to be given orally or through sworn written affidavits. The hearing shall be recorded electronically or by other means.

G. Within 10 days after the hearing, the Hearing Officer shall send his written decision based on a preponderance of the evidence, by certified mail, to each claimant. The decision of the Hearing Officer shall be final.

H. Property shall be released to any person who produces a copy of the original petition and the final decision in their favor describing the requested property, and appropriate identification to the Police Department Property Custodian. No property may be released until 20 days after the date of the Hearing Officer's decision.

I. Any aggrieved person may seek judicial review of the Hearing Officer's final decision by a special action proceeding in Superior Court. Nothing in this section shall prevent any person from filing an action in court to establish ownership to the property.

J. In lieu of the procedures set forth in this section, the Town may file a complaint in interpleader in a court of competent jurisdiction against all person claiming an interest of ownership in the property held in possession of the Town.

Section 4-8-10 <u>Affidavit; Records</u>

A. An affidavit shall be prepared and served as prima facie evidence of the facts contained therein, by: (1) any finder who may, subsequently, claim the money or property found; (2) the person serving the notice of disposition by mail or publication; (3) the person who disposes of property by destruction; (4) the person who releases property to the Finance Department for public auction; (5) the person who releases unclaimed money to the Finance Department to be deposited in the General Fund of the Town; (6) the person who presides as Hearing Officer in a contested property dispute.

B. The Police Department shall keep a complete record of all money and property taken into possession, including a copy of the notice of disposition, a copy of the petition filed with the court; the name and address of the purchaser and amount paid, and a statement of the costs of sale and advertising which will be forwarded to the property section of the Police Department; the original affidavits described in Subsection 4-8-10 (A), and a copy of any documents pertaining to disposition of the property.

C. All affidavits and records of disposition of money or property shall be kept for a minimum of 24 months.

Page 43 Reserved for future use

CHAPTER 5 POLICE AND FIRE SERVICES DEPARTMENTS

ARTICLE 5-1 POLICE DEPARTMENT

5-1-1 Created; Composition
5-1-2 Office of Chief of Police
5-1-3 Compensation of Officers
5-1-4 Witness Fee
5-1-5 Rewards
5-1-6 Duties of Police Department
5-1-7 Answering Calls Outside the Town
5-1-8 Volunteer Unarmed Police Aide Program ⇦Ord. 986 – 7/07

Section 5-1-1 Created; Composition

There is hereby created a Police Department for the Town which shall consist of a Chief of Police who shall also serve as Town Marshal, and as many policemen as may, from time to time, be necessary for the safety and good order of the Town.

Section 5-1-2 Office of Chief of Police

A. Appointment. The Chief of Police shall be appointed by the Town Manager subject to the approval of the Council.

B. Rank. He shall be the head of the Department and have supervision over all the officers and members thereof.

Section 5-1-3 Compensation of Officers

The Chief of Police and the Police personnel of the Town shall be compensated as determined by the Council. The Chief shall not receive any perquisites, commissions or compensations for his services as Chief of Police, Town Marshal or Tax Collector, except as the Council may prescribe.

Section 5-1-4 Witness Fee

Every member of the Police Department shall appear as witness whenever necessary in a prosecution for a violation of any Municipal, State or Federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the municipality is a party. Any fees paid for such services shall be turned over to the Chief of Police, who shall deposit the same with the Clerk.

Section 5-1-5 Rewards

The Chief of Police, for meritorious service rendered by any member of the Police Department in the due discharge of his duty, may permit such member to retain for his own benefit, so far as he may be permitted by State law, any reward or present tendered him therefore, and it shall be cause for removal for any member of the Department to receive any such reward or present without notice thereof to the Chief of Police and without his permission.

Section 5-1-6 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. Take charge of the Town jail and all prisoners confined therein, and all those who are sentenced to labor on the streets or public works of the Town and to see that orders and sentences with reference to such are fully executed and complied with.

C. Deliver any persons who may be confined in the jail upon conviction of a crime committed under the jurisdiction of the Magistrate's Court to any authorized officer of the Town who shall, at any time, demand such prisoners. Any such authorized person so demanding and receiving such prisoners shall work such prisoners on the streets or alleys of the Town or on any and all authorized work.

⇦Ord. 986 – 7/07

D. Render such account of the Police Department, its duties, and receipts as may be required, and keep records of the office open to inspection at any time.
E. Direct traffic and ensure the orderly flow thereof and investigate and make reports of traffic accidents.
F. Inspect and ascertain the condition of traffic control devices of every description which have been erected within the Town on the authority of the Council and to notify the Manager of any defects found therein.
G. Perform such additional duties as may be required.

Section 5-1-7 Answering Calls Outside the Town

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

Section 5-1-8 Volunteer Unarmed Police Aide Program ⇦Ord. 986 – 7/07

A. A. The Police Department shall establish a volunteer unarmed Police Aide Program in accordance with §28-627(E)(1) and §28-886.

B. Unarmed volunteer Police aides are authorized to issue citations within Town limits solely for violations of Town parking ordinances and for violations of A.R.S. §28-884 regulating parking spaces for disabled persons.

ARTICLE 5-2 FIRE DEPARTMENT*

5-2-1 Created; Composition
5-2-2 Appointment, Powers and Duties of Chief
5-2-3 Entry Upon Adjacent Property
5-2-4 Providing Fire Protection Outside the Town
5-2-5 Acknowledgment of Right of Way
5-2-6 Fire Alarms
5-2-7 Orders of Fire Chief

Section 5-2-1 Created, Composition

There is hereby created a Fire Department for the Town, which shall consist of a Chief and such other personnel as may be required.

Section 5-2-2 Appointment, Powers and Duties of Chief

A. The Fire Chief shall be the head of the Fire Department and have supervision over all officers and members thereof.

B. It shall be the duty of the Fire Chief to:
1. Keep such records and make such reports concerning the activities of his Department as may be required by the Council.

*State law reference. A.R.S. § 9-240 (B) (7)

⇦Ord. 986 – 7/07

2. Be responsible for the performance of the Fire Department and its functions, and all persons who are members of the Fire Department shall serve subject to his orders.

3. Be responsible for the control and custody of all Fire Department property and equipment.

4. Examine the apparatus and buildings of the department as often as necessary so that they are properly kept and cared for, and are in good order and serviceable condition, and if any supplies, repairs or additions are required, to report the same to the Manager.

5. Report to the Manager as required the number of fires, the amount of loss, the condition of the Department, and any recommendations he may deem proper.

6. Preside at the annual and special meetings of the Department.

7. Control and have general authority over the Department when on duty, parade or inspection.

8. Settle all disputes between companies when on duty, his\her decision to be final.

C. The Fire Chief and the members of the Fire Department shall have the authority of a Police Officer while actively engaged in fighting a fire, or going to or from a fire, or performing any other duty required by law or the provisions of this Code.

D. The Chief of the Fire Department shall have immediate charge of the Fire Department and all equipment belonging thereto and shall supervise and direct the Department in fighting fires and in, the prevention of fires and do all things required so as to safeguard against loss by fire.

E. During the progress of a fire, the authority of the Chief in all matters connected with the management or direction thereof or the disposition of property endangered by it shall be absolute.

Section 5-2-3 <u>Entry Upon Adjacent Property</u>

It is lawful for any fireperson, acting under the direction of the Chief or another officer in command to enter upon the premises adjacent to, or in the vicinity of' any building or other property that is on fire for the purpose of extinguishing such fire, and no person shall hinder, resist or obstruct any fireperson in the discharge of his duty as hereinbefore provided.

Section 5-2-4 <u>Providing Fire Protection Outside the Town</u>

The Fire Department is hereby authorized to answer fire alarms and fight fires beyond the corporate limits, whenever the Fire Chief or his assistant, in his discretion, shall deem it necessary to protect lives and property.

Section 5-2-5 <u>Acknowledgment of Right of Way</u>

Each member of the Department who drives a private motor vehicle shall be issued suitable insignia, which may be attached to such motor vehicle. All motor equipment of the Department shall have right of way aver all other traffic when responding to an alarm. No unauthorized vehicle shall follow within five hundred feet (500') of any apparatus belonging to the Department, nor park within five hundred feet (500') of a fire, nor park any vehicle or otherwise cause any obstruction to be placed within twenty feet (20') of the entrance to any fire station of other place where

fire apparatus is stored or within fifteen feet (15') of any fire hydrant. No person shall drive any vehicle over fire hose except upon specific orders from the Chief or other officer in charge where the hose is used.

Section 5-2-6 Fire Alarms

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

Section 5-2-7 Orders of Fire Chief

It is unlawful for any fireperson or citizen to refuse to obey an order issued by the Fire Chief pursuant to his authority.

Page 48 – Reserved for future use.

CHAPTER 6 POLICE COURT

ARTICLE 6-1 POLICE COURT ESTABLISHED; JURISDICTION

There is hereby established in the Town a Police Court which shall be known as the Town Court of the Town of Wickenburg and which will 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, in accordance with Arizona Revised Statutes, Title 22, Chapter 4, Article 1.

ARTICLE 6-2 PRESIDING OFFICER

6-2-1 Town Judge
6-2-2 Powers and Duties of the Town Judge

Section 6-2-1 Town Judge

A. The presiding officer of the Town Court shall be the Town Judge who shall be appointed by the Council.

B. ✻The Town Judge shall serve for a term of not less than two (2) years and not to exceed four (4) years with the beginning and the end of the term to be specified at the time of appointment. During such term, the Judge may be removed only for cause.

Section 6-2-2 Powers and Duties of the Town Judge

The powers and duties of the Town Judge shall include:

A. The powers and duties set forth and conferred upon him 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 responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law.

D. Payment of all fees, fines, penalties and other monies collected by the Court to the Clerk.

E. Submitting a monthly report to the Council summarizing Court activities including all monies collected for that month. The report for each month shall be filed by the tenth (10th) of the following month.

F. Preparation of a schedule of traffic violations not involving the death of a person, listing specific bail for each violation.

ARTICLE 6-3 PROCEEDINGS OF COURT

A. The proceedings shall be conducted in accordance with the State Constitution, the applicable State Statutes and rules of the State Supreme Court pertaining to Police Courts. The proceedings shall also be conducted in accordance with the rules of criminal procedure for the Superior Court, unless otherwise prescribed, and providing this Code and resolutions of the Town are not in conflict therewith.

B. The Town 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.

Rev. 5/86| ✻Rev.12/01 Ord. 879

C. If the Town 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 Town Judge may subpoena and examine witnesses as to the truth of the complaint.

ARTICLE 6-4 FORMATION AND SUMMONING OF JURIES; JURORS' PAY

Ord. 1120/05-13

A. The formation and summoning of juries in the Town Courts shall be one in the same manner as provided for by law in Courts of Record.

B. Selection of potential jurors shall be made from the master jury list furnished by the County Recorder pursuant to Section 21-311, Arizona Revised Statutes.

C. Only persons who reside within the Town's limits are eligible for jury service in the Town Court.

D. Each juror shall be paid $12.00 by the Town for each days' attendance upon the Town Court and reimbursed for mileage pursuant to Section 21-221, Arizona Revised Statutes.

ARTICLE 6-5 JUDGES PRO TEMPORE

A. The Council may appoint Judges Pro Tempore on a temporary full-time or part-time basis.
B. The selection and appointment of Judges Pro Tempore shall be upon the recommendation of the Town Judge.

ARTICLE 6-6 HOME DETENTION PROGRAM

Ord. 1032\3-09

6-6-1 Establishment Of Home Detention Program
6-6-2 Home Detention For Violation Of A.R.S. §28-1381 or §28-1382

Section 6-6-1 Establishment of Home Detention Program

A. A Home Detention Program is hereby established in the Town Court for persons who are sentenced to jail confinement, including those persons sentenced under A.R.S. §28-1381 or §28-1382. If a person is sentenced to jail confinement by the Town Court, the Court may substitute Home Detention for a portion of the jail term as provided in this Article.

B. The presiding Judge shall develop and implement a Home Detention Program that complies with the requirements of State law.

Rev. 5/86| Rev.12/01 Ord. 879

Ord. 1032\3-09

Ord. 1103/5-12

Ord. 1120/05-13

C. Home Detention shall not be permitted for persons who:

1. Are found to constitute a risk to themselves or other members of the community.

2. Have a history of violent behavior.

3. Have been convicted of and are being sentenced for a domestic violence offense pursuant to §13-3601 of the Arizona Revised Statutes.

4. Have been convicted of and are being sentenced for an act of prostitution or solicitation pursuant to §13-3214 of the Arizona Revised Statutes.

5. Is not eligible under §9-400.07 of the Arizona Revised Statutes or has been declared ineligible by the sentencing Judge for participation in the Home Detention Program.

D. Except as provided in Section 6-6-2, any person placed on Home Detention shall serve an initial twenty-four (24) consecutive hours in jail. The person shall pay the costs of incarceration.

E. A person placed under Home Detention shall be subject to electronic monitoring in the person's home and shall be required to remain at home during the hours specified by the Court. The person shall pay the full cost of the electronic monitoring.

F. If the person attends educational classes in Maricopa County or Yavapai County or is employed, the Court may permit the person to attend classes or leave home for employment during specified hours. The Court may permit the person to attend religious services, funerals or seek necessary medical care.

G. The Court may require a person under Home Detention to participate in community service work or impose other reasonable requirements or restrictions the Court deems necessary.

H. The Court shall terminate a person's Home Detention and require the person to complete the remaining term of the jail sentence by jail confinement if the Court finds the person has improperly left the home during Home Detention or has violated any other terms of the Home Detention Order.

I. The Court is authorized to assess costs against an offender who participates in a Home Detention Program to the extent authorized by law.

Section 6-6-2 <u>Home Detention for Violation of A.R.S. §28-1381 or §28-1382</u>

A. In addition to the requirements of Section 6-6-1, if an offender is sentenced under A.R.S. §28-1381 or §28-1382, the person may participate in a Home Detention Program only if the person meets the requirements of this Section.

Ord. 1114/12-12
Ord. 1101/4-12

B. The person must first serve a minimum of one (1) day in jail as sentenced under A.R.S. §28-1381(i). The person must first serve a minimum of twenty percent (20%) of the initial term of incarceration in jail if sentenced under A.R.S. §28-1381(k) or §28-1382(d) or § 28-1382(e).

C. The person shall be tested at least once daily for the use of alcohol or drugs in a manner approved by the Court. The person shall pay the full cost of alcohol or drug testing.

D. The Court shall terminate a person's Home Detention and require the person to complete the remaining term of the jail sentence by jail confinement if the Court finds the person has not successfully completed Court-Ordered alcohol or drug screening and treatment pursuant to §28-1381 or §28-1382 of Arizona Revised Statutes or has violated any other term of the Home Detention Order.

Ord. 1101/4-12

CHAPTER 7 ANIMALS

ARTICLE 7-1 RULES AND REGULATIONS

7-1-1 Definitions
7-1-2 Powers and Duties of the State Veterinarian and the Livestock Board
7-1-3 Powers and Duties of State Department of Health Services
7-1-4 Powers and Duties of Enforcement Agent
7-1-5 License Fees for Dogs; Issuance of Dog Tags; Records; Penalties; Classification; Exception
7-1-6 Anti-Rabies Vaccination; Vaccination and License Stations
7-1-7 Kennel Permit; Fee; Violation
7-1-8 Rabies Control Fund
7-1-9 Dog Not Permitted at Large; Wearing License
7-1-10 Establishment of Pounds; Impounding and Disposing of Dogs and Cats; Reclaiming Impounded Dogs and Cats; Pound Fees
7-1-11 Handling of Biting Animals; Responsibility for Reporting Animal Bites; Authority to Destroy Animals
7-1-12 Unlawful Interference with Enforcement Agent
7-1-13 Removing Impounded Animals
7-1-14 Unlawful Keeping of Dogs
7-1-15 Violation; Classification
7-1-16 Dogs; Liability
7-1-17 Proper Care, Maintenance and Destruction of Impounded Animals
7-1-18 Disposal of Fecal Matter Ord. 1006/1-09

Section 7-1-1 Definitions

In this Chapter 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. "Department" means the State Department of Health Services.

D. "Enforcement agent" means that person in each County who is responsible for the enforcement of this Chapter and the regulations promulgated thereunder.

E. "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 pound in accordance with the provisions of this Chapter.

F. "Kennel" means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains five (5) or more dogs under controlled conditions.

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

H. "Owner" means any person keeping an animal other than livestock for more than six (6) consecutive days.

I. "Pound" 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.

J. "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.

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

L. "Stray dog" means any dog Three (3) months of age or older running at large that is not wearing a valid license tag.

M. "Vaccination" means the administration of an anti-rabies vaccine to animals by a veterinarian or in authorized pounds by employees trained by a veterinarian.

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

O. "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.

P. "Vicious animal" means any animal of the order carnivore that has a propensity to bite human beings without provocation and has been so declared after a hearing before a Justice of the Peace or a Town Magistrate.

Section 7-1-2 <u>Powers and Duties of the State Veterinarian and the Livestock Board</u>

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 7-1-3 <u>Powers and Duties of State Department of Health Services</u>

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 7-1-4 <u>Powers and Duties of Enforcement Agent</u>

A. The enforcement agent shall:

1. Enforce the provisions of this Article and the regulations promulgated thereunder.

2. 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. 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 7-1-5 <u>License Fees for Dogs; Issuance of Dog Tags; Records Penalties; Classification; Exception</u>

A. The Town Council shall set an annual license fee which shall be paid for each dog ~~four (4)~~ THREE (3) months of age or over that is kept, harbored or maintained within the boundaries of the Town for at least thirty (30) 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 (90) days. A penalty not to exceed ~~four~~ TWENTY-TWO dollars ~~($4.00)~~ ($22.00) shall be added to the license fee in the event that application is made subsequent to the date on which the dog is required to be licensed under the provisions of this Article. 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 (30) 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 running at large, except 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 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 (15) 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 remove 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 2 Misdemeanor.

E. A guide dog belonging to a blind person who is a resident of the State or any bona fide, non-profit organization which is in the business of breeding, raising or training dogs that are used for guiding the blind shall, upon application by the owner or organization to the enforcement agent and on presentation of proper proof, be vaccinated and licensed pursuant to this Article without payment of a fee.

Section 7-1-6 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, 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 (10th) 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 that 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 7-1-7 Kennel Permit; Fee, Violation *Ord. 1140

A. A person operating a kennel shall obtain a permit issued by the Board of Supervisors of the County where the kennel is located except if each individual dog is licensed.

B. 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 permit, issued under this Section.

C. A person who fails to obtain a kennel permit under this Section is subject to a penalty, as established by Council Resolution.

D. A person who knowingly fails within thirty (30) days after written notification from the County enforcement agent to obtain a kennel permit is guilty of a Class 1 Misdemeanor.

Section 7-1-8 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 7-1-9 Dogs Not Permitted at Large; Wearing License

A. Neither a female dog during her breeding or mating season nor a vicious dog shall be permitted at large.

B. In a rabies quarantine area, no dogs shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property, or secured so that a dog is confined entirely to the owner's property, or on a leash not to exceed six feet (6') in length and directly under the owner's control when not on the owner's property.

C. Any dog over the age of ~~four (4)~~ THREE (3) months running at large shall wear a collar or harness to which is attached a valid license tag. Dogs used for control of livestock or while being used or trained for hunting, or dogs while being exhibited or trained at a kennel club event, or dogs while engaged in races approved by the Arizona Racing Commission, and such dogs while being transported to and from such events need not wear a collar or harness with a valid license attached provided that they are properly vaccinated, licensed and controlled.

D. 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.

E. Any dog(s) at large in violation of this Section 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(s), 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(s) to the dog owner or person acting for the owner when the dog is at large. The procedure for the issuance of notice to appear shall be as provided for Peace officers in A.R.S. § 13-3903, except the enforcement agent shall not make an arrest before issuing the notice. The issuance of citation(s) pursuant to this Article shall be subject to provisions of A.R.S. § 13-3899.

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.

Section 7-1-10 **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 pound for a minimum of seventy-two (72) 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 pound fees and complies with the licensing and vaccinating 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. If such dog or cat is to be used for medical research, no license or vaccination shall be required. 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 pound fees. If the dog or cat is not reclaimed within the impoundment period, the enforcement agent shall take possession and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. Any person purchasing such dog or cat shall pay all pound fees. Pound fees shall be set by resolution of the Council.

Section 7-1-11 **Handling of Biting Animals; Responsibility for Reporting Animal Bites; Authority to Destroy Animals**

A. An unlicensed or unvaccinated dog or any cat that bites any person shall be confined and quarantined in an authorized pound or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than seven (7) days. A dog properly licensed and vaccinated pursuant to this Article that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the enforcement agent.

B. Any animal other than a dog or cat that bites any person shall be confined and quarantined in an authorized pound or, upon the request of and at the expense of the owner, at a veterinary hospital for a period of not less than fourteen (14) days, provided that livestock shall be confined and quarantined for the fourteen (14) 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.

C. Any wild animal, which bites any person, may be killed 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. The County enforcement agent may destroy 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 destruction.

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

G. The County enforcement agent shall destroy a vicious animal upon an order of a Justice of the Peace or a Town Magistrate. A Justice of the Peace or Town Magistrate may issue such an order after notice to the owner, if any, and a hearing.

Section 7-1-12 **Unlawful Interference with Enforcement Agent**

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

Section 7-1-13 **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 7-1-14 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 7-1-15 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 2 Misdemeanor and may be subject to imprisonment for a maximum period of four (4) months or fined a maximum of $750.00, or both.

Section 7-1-16 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 owner or person or persons responsible for the dog when such damages were inflicted.

Section 7-1-17 Proper Care, Maintenance and Destruction of Impounded Animals

A. Any animal impounded in a County, City or Town pound shall be given proper and humane care and maintenance.

B. Any dog or cat destroyed while impounded in a County, City or Town pound shall be destroyed only by the use of one of the following:
   1. Sodium pentobarbital or a derivative or 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 in accordance with procedures established by the State Veterinarian pursuant to A.R.S. § 24-153.

D. The governing body of any County, City or Town, which operates a pound, shall establish procedures for the humane destruction of impounded animals by the methods described in Subsections B and C of this Section.

Section 7-1-18 Disposal of Fecal Matter Ord. 1006/1-09

The owner or person in control of a dog shall immediately remove all feces deposited by such dog on or in Town parks, sidewalks, streets, hard surface trails intended for use by pedestrians or bicycles, and Town property on which structures or other improvements have been constructed. Such dog feces shall be disposed of in a sanitary manner. A violation of this Section shall be a Class 2 Misdemeanor subject to a fine of a maximum of $300.00.

ARTICLE 7-2 LIVESTOCK REGULATIONS

7-2-1 Strays; Housing
7-2-2 Animals Prohibited
7-2-3 Noises
7-2-4 Horses in Town Parks

Section 7-2-1 Strays; Housing

Any person who keeps or causes to be kept, any animal, shall keep such animals in a pen or similar enclosure to prevent their roaming at large. Any animal running at large may be impounded by the Police Department. It is unlawful to cause or allow any stable or place where an animal is or may be kept, to become unclean or unwholesome.

Section 7-2-2 Animals Prohibited

A. Maintenance of any dairy, dairy herd, cattle feed pens, cattle feed lots, pigs, swine, pig sties, goats, roosters, commercial rabbit hutches or farms, or commercial chicken farms is hereby declared to be a nuisance.

B. At-Large Animals Prohibited.

No pigs, swine, goats, roosters, chickens, bison, ratites and livestock, including horses, shall be permitted to roam at large in the Town. If the animal is found on private property and an officer can identify the owner of the animal at large, he shall provide notice to the owner that the animal is roaming at large and the owner shall take possession of the animal and confine it within four (4) hours of said notice. If the owner fails to retrieve the animal immediately upon notice or if the owner cannot be located, the officer may have the animal contained and removed by an appropriate agency or company; the costs of removal and storage shall be borne by the owner and paid upon retrieval. Written notice of the removal and place of storage shall be provided as soon as practical to the owner.

C. Animal Owners Liable For Damages. The owner of any animal listed in Subsections A and B of this Section shall be liable for all property damages, injuries or death proximately caused by his or her animal or animals during any period or time the animal or animals were at-large within the Town limits save and except damages, injuries or death proximately caused by a person or persons provoking the animal or animals, if it is determined in a Court of competent jurisdiction that the provocation was the proximate cause of the property damages, injuries or death to the provoking person or persons.

D. Determination or Ownership. A registered brand displayed on an animal shall be prima facie evidence of ownership of the animal, but the owner of the brand by a preponderance of evidence, offered in a Court of competent jurisdiction, may demonstrate to the satisfaction of the Court that he or she was not the owner of the animal at the time it was at-large in the Town.

Section 7-2-3 **Noises**

It is unlawful to harbor or keep any animals, which disturb the peace, comfort or health of any person residing in the Town, or allow noises at any time of the day or night.

Section 7-2-4 **Horses in Town Parks**

It is unlawful for any person to walk or ride horses in Coffinger Park, Stone Park, McGuire Park or on the grounds of the Wickenburg Community Center property except on established roadways or driveways.

Page 60 RESERVED FOR FUTURE USE

CHAPTER 8 BUILDING

ARTICLE 8-1 BUILDING CODE

8-1-1 Adoption of Codes
8-1-2 Rules and Definitions
8-1-3 Board of Appeals
8-1-4 Continuity
8-1-5 Rules and Regulations
8-1-6 Permits
8-1-7 Fees
8-1-8 Enforcement
8-1-9 Violations
8-1-10 Permit Requirements
8-1-11 Amendments to Building Code

Section 8-1-1 Adoption Of Codes ✖Ord. 897/7-3-03

A. ADOPTION OF INTERNATIONAL BUILDING CODE, 2006 EDITION ⚒Ord. 1000:

1. That certain document, three (3) copies of which are on file in the office of the Town Clerk of the Town of Wickenburg, being marked and designated as the International Building Code, 2006 Edition, including Appendix Chapters (A, B, C, D, E, F, G H, I, J, K,) (SEE IBC CODE SECTION 101.2.1, 2006 EDITION), as published by the International Code Council, be and is hereby adopted as the Building Code of the Town of Wickenburg for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the Town of Wickenburg are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in SUBPARAGRAPH 2.

2. The following Sections of the International Building Code, 2006 Edition, are hereby revised: *Ord. 1140

Section 101.1	Insert: TOWN OF WICKENBURG
Section 108.2	Fee Schedule as adopted by Council Resolution.
Section 1612.3	Insert: TOWN OF WICKENBURG
Section 1612.3.	Insert Town of Wickenburg and Flood Insurance Study dated July-19-2001
Section 3410.2.	Adopted May 5, 2007; Effective June 6, 2008

3. Insurance work will be evaluated from actual damage to the structure only as determined by the insurer or the Fire Department.
4. Whenever a Building Permit is issued and a building inspection is performed, such building must conform to the provisions of the Zoning Ordinance of the Town in addition to the provisions of this Chapter.
5. The Town's grading fees shall be established by Council Resolution. *Ord. 1140

B. ADOPTION OF INTERNATIONAL RESIDENTIAL CODE, 2006 EDITION: ✂Ord. 1000 *Ord. 1140

1. That ~~a~~ certain document, three (3) copies of which are on file in the office of the Town Clerk of the Town of Wickenburg, being marked and designated as the International Residential Code, 2006 Edition, including Appendix Chapters A, B, C, D, E, F, G H, I, J, K, L, M, N, O, P, Q) (See IRC Code Section R102.5, 2006 Edition), as published by the International Code Council, be and is hereby adopted as the Residential Code of the Town of Wickenburg for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provision, penalties, conditions and terms of said Residential Code on file in the office of the Town of Wickenburg Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Subparagraphs 2 through 5.

2. The following Sections are hereby revised:

SECTION R101.1 : INSERT TOWN OF WICKENBURG
TABLE R301.2(1): INSERT EXHIBIT A – SEE PAGE 65
SECTION P2603.6.1: INSERT Twelve Inches (12") and Twelve Inches (12")
SECTION P3103.1: INSERT Six Inches (6") and Six Inches (6")

3. Insurance work will be evaluated from actual damage to the structure only as determined by the insurer or the Fire Department.
4. Whenever a Building Permit is issued and a building inspection is performed, such building must conform to the provisions of the Zoning Ordinance of the Town in addition to the provisions of this Chapter.
5. Section R102.7 existing structures shall be deleted and replaced with the following: the legal occupancy of any structure existing on the effective date of this Code shall be permitted to continue without change except as specifically permitted in this 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.

C. ADOPTION OF INTERNATIONAL MECHANICAL CODE, 2006 EDITION: ✂Ord. 1000

1. That certain Code entitled, International Mechanical Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the International Mechanical Code of the Town of Wickenburg and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

D. ADOPTION OF INTERNATIONAL FIRE CODE, 2003 EDITION □

That certain Code entitled, "International Fire Code", 2003 Edition, together with all appendices thereto, published by the International Conference of Building Officials and Western Fire Chiefs Association, is hereby adopted as the "International Fire Code 2003 of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

E. ADOPTION OF INTERNATIONAL PLUMBING CODE, 2006 EDITION: ✂Ord. 1000

1. That certain Code entitled, International Plumbing Code", 2006 Edition, together with all appendices thereto, as amended in paragraph 2 below, is hereby adopted as the "International Plumbing Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

2. Evaporative Cooling Systems: All shall be equipped with a re-circulating water pump and shall be installed as part of all new or replacement evaporative cooler units.

F. ADOPTION OF INTERNATIONAL EXISTING BUILDING CODE, 2006 EDITION:

That certain code entitled, "International Existing Building Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the "International Existing Building Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

G. ADOPTION OF NATIONAL ELECTRIC CODE, 2005 EDITION:

1. That certain Code entitled, "National Electric Code", 2005 Edition, together with all appendices thereto, published by the National Fire Protection Association, NFPA No. 701990, is hereby adopted as the "Electrical Code of the Town of Wickenburg" and is made a part of this Chapter the same as though said Code was specifically set forth in full herein; and at least three (3) copies of said Code shall be filed in the office of the Town Clerk and kept available for public use and inspection.

H. ADOPTION OF INTERNATIONAL FUEL GAS CODE, 2006 EDITION: ✂Ord. 1000/5-08

That certain code entitled, "International Fuel Gas Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the "International Fuel Gas Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

✖ Rev. 6/2/03|Ord.897
▽ Ord.983/June 07
✂Ord. 1000/5-08
✓ Ord. 1017/11-08

I. ADOPTION OF INTERNATIONAL ENERGY CONSERVATION CODE, 2006 EDITION: ✓

That certain code entitled, "International Energy Conservation Code", 2006 Edition, is hereby adopted as the "International Energy Conservation Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

J. ADOPTION OF UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997 EDITION

Ord. 1035/3-09

That certain Code entitled, "Uniform Code for the Abatement of Dangerous Buildings", 1997 Edition, is hereby adopted as the "Uniform Code for the Abatement of Dangerous Buildings of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

K. ADOPTION OF THE 2007 MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION: ▽ Ord.983/June 07

That certain Code entitled, "The 2007 MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION", Edition, together with all appendices thereto, is hereby adopted as the standard specifications and details for public works construction in the Town of Wickenburg and made a part of this Chapter the same as though said Code as specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the Office of the Town Clerk and shall be kept available for public use and inspection.

✖ Rev. 6/2/03|Ord.897
▽ Ord.983/June 07
✂Ord. 1000/5-08
✓ Ord. 1017/11-08
Ord.1035/3-09

Section 8-1-2 Rules and Definitions

A. The term "International Building Codes" as used hereinafter shall mean the Codes referred to in Section 8-1-1.

B. The terms used in this Article shall be defined as provided in the Codes adopted in Section 8-1-1, except as herein otherwise provided.

C. Whenever the terms "governing body" or "city" or "Town" or "municipality" are used in the International Building Codes, they shall mean the Town of Wickenburg.

D. Whenever the terms "Mayor", "appointing authority", "Commission" or "City or Town Council" are used, they shall mean the Common Council of the Town of Wickenburg.

E. Whenever the terms "administrative authority", Building Official" or "administrator" are used in the International Building Codes, it shall mean the Building Inspector of the Town of Wickenburg.

F. Whenever the terms "other Codes" or "other Code" are used in the International Building Codes, they shall mean the other Code or other Codes adopted by the County of Maricopa and the State of Arizona.

G. Reference to Chapters, Articles, Sections and Subsections or paragraphs and to tables thereof are to the International Building Codes.

H. Administrative Provisions. Part 1 of the International Building Code in Section 8-1-1 shall be used as the administrative rules for administering this Article, except as otherwise hereinafter provided.

Section 8-1-3 Board of Adjustment ⚒Ord. 1000/5-08

A. In order to determine the suitability of alternative materials and methods of construction and to provide for reasonable interpretations of the provisions of this Chapter, there shall be a Board of Adjustment, which shall be that same body established in Section 14-18-1, et seq. of the Code of the Town of Wickenburg. The building official shall be an ex-officio member of the Board, for matters pertaining to the International Building Code and its interpretation. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing. The Board of Adjustment shall sit at regular or special meetings and may consider at one and the same meeting matters pursuant to this Chapter, as well as matters pursuant to Chapter 14.

B. All appeals under this Chapter must be submitted at least seven (7) days prior to any regular or special meeting. Upon filing an appeal from a decision of the Building Department, the appellant shall pay a filing fee of twenty-five dollars ($25.00) to the Town Clerk. No part of any such fee shall be returnable after an application is filed and such fee paid.

Section 8-1-4 Continuity

The International Code Council and other publishers identified in Section 8-1-1 issues each edition of the International Building Codes periodically which is maintained by annual supplements. In order that this Article maintains its continuity, it shall be the responsibility of the Town Administration to review and present all such necessary supplements to the Common Council for appropriate action.

Section 8-1-5 Rules and Regulations

Town administration shall propose to the Common Council for adoption rules and regulations in the interest of public safety, health and general welfare to implement the provisions of this Article and to secure the intent thereof; but no such rules shall have the effect of waiving technical provisions specifically provided in the International Building Codes or of violating accepted engineering practices involving public safety.

Section 8-1-6 Permits

A. Applications shall be made and permits issued at the discretion of the Town administration for the following items:

1. Construction, erection, demolition, alteration or repair of any building or structure.

II Ord. 1012/9-08
✖ Rev. 6/2/03|Ord.897
▽ Ord.983/June 07
⚒Ord. 1000/5-08

2. Installation or replacement of any plumbing fixtures which require changing or alteration of the rough plumbing servicing such fixture as well as the alteration or installation of rough plumbing for the service of future fixtures.
3. The installation, replacement or alteration of any electrical fixtures appliance, outlet or service, which shall require a change, alteration, or replacement of any rough wiring.
4. The installation or alteration of any heating, cooling, refrigeration or ventilating equipment which shall involve the installation or alteration of duct work or the alteration of fuel lines or electric wiring to the equipment.
5. Masonry or other retaining walls which are retaining earth more than eighteen (18) inches in depth, detached accessory buildings more than one hundred forty-four (144) square feet in area, tool sheds, storage buildings and other accessory buildings with more than one hundred forty-four (144) square feet projection roof area. **II /** **(Ord. 1075/8-10)**

B. In addition to the requirements of Section 105 IBC and Section R105 IRC of the International Building Codes for the application of a permit, the applicant shall also file a signed statement that the applicant is currently licensed to perform the work applied for in the permit under the provisions of A.R.S §32-1101, et. seq., with his license number. If the applicant is exempt from the provisions of that law, the statement shall contain the basis of the asserted exemption and the name and license number of any general, mechanical, electrical or plumbing contractor who will be employed on the work. Ord. 1000/5-08

Section 8-1-7 <u>Fees</u>

A. For purposes of determining Building Permit Fees for Codes adopted by Section 8-1-1, valuation shall be determined in accordance with International Code Council Building Valuation data table and construction cost table released in august of each year. *Ord. 1140

B. The following shall require the issuance of a permit but shall be exempt from the requirement of collection of fees:
   1. Curbs, retaining walls, planter walls, fences and free standing masonry walls up to thirty-six (36) inches in height and not retaining earth more than eighteen (18) inches in depth.
   2. Patio covers accessory to Group H, I and J occupancies up to one hundred (100) square feet provided other requirements are complied with.
   3. One story tool and storage sheds and other accessory buildings not used for human occupancy in the rear yard with not more than, one hundred forty-four (144) square feet of projected roof area provided all other requirements are complied with. **(Ord. 1075/8-10)**

C. The following shall not require permit or fee:
   1. Residential television and radio antennas supported on roofs.
   2. Awnings projecting up to six (6) feet and attached to the exterior walls of buildings in Group I and J occupancy.
   3. Repairs or maintenance which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over one thousand dollars ($1,000.00) in valuation in any twelve (12) month period. Repairs exempt from permit requirements shall not include any addition, change or modification in construction, exit facilities or permanent fixtures or equipment.
   4. Paved driveways or sidewalks provided drainage is controlled to a public right-of-way.
   5. Painting, decorating and installation of floor covering.

(Ord. 1075/8-10)
*Ord. 1140/6-14

Section 8-1-8 Enforcement

It shall be the duty of the Town Planner or Town Manager to certify that all requisite Zoning clearances and approvals have been issued and are in order prior to the issuance of any permit for any activity for which a permit is required. Notwithstanding the foregoing, the Town Planner or Town Manager may authorize the issuance of an emergency permit if the work covered by the permit is intended to mitigate conditions, which may pose a hazard or threat to the health or safety of persons or property. *(Ord. 838: 6/99)*

Section 8-1-9 Violations

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town, cause the same to be done, contrary to or in violation of any of the provisions of this Article.

Section 8-1-10 Permit Requirements

A. Except for Plan Review fees, all fees due pursuant to this Article shall be paid prior to Building Permit issuance. Plan Review fees shall be paid at the time of filing an application. If additional Plan Review fees become due after the filing of an application, such fees shall be paid prior to the issuance of a Building Permit. All fees shall be in conformance with current fee schedules set forth in this Article. Ord. 1040/4-09

B. Nothing in this Chapter shall be construed to require changes in the plans, construction or designated use of the building for which a lawful permit has been heretofore issued or otherwise lawfully authorized.

Section 8-1-11 Amendments to Building Code Ord. 1000/5-08, Ord. 1046/7-09

A. The International Building Code of the Town of Wickenburg, 2006 Edition, Section 2109.8, Adobe Construction, shall be amended to read as follows:

1. General: The use of un-reinforced masonry of unburned clay units shall be limited to buildings of Group R Division 3 and Group M occupancies of no more than one (1) story in height, unless a registered architect or engineer submits design and structural calculations and approved by the Building Official.
2. Walls: The height of every laterally unsupported wall of unburned clay units shall be not more than ten (10) times the thickness of such walls. Exterior walls, which are laterally supported with those supports located no more than twenty-four feet (24') apart, are allowed a minimum thickness of sixteen inches (16"). Interior walls are allowed a minimum thickness of twelve inches (12"). Designed walls may be a minimum thickness of ten inches (10") provided the h/t ratio of ten (10) is maintained.
3. Compressive Strength: The unit(s) shall have an average compressive strength of three hundred (300) pounds per square inch when tested in accordance with ASTM C67. One (1) sample out of five (5) may have a compressive strength of not less than two hundred fifty (250) pounds per square inch.
4. Modulus of Rupture: The unit shall average fifty (50) pounds per square inch in modulus of rupture when tested according to the following procedure:
   a. A cured unit shall be laid over (cylindrical) supports two inches (2") in diameter, located two inches (I') from each ends and extending across the full width of the unit.
   b. A cylinder two inches (2") in diameter shall be laid midway between and parallel to the supports.
   c. Load shall be applied to the cylinder at the rate of five hundred (500) pounds per minute until rupture occurs.
   d. The modulus of rupture is equal to $\frac{3WL}{2Bd^2}$

      W = Load of rupture
      L = Distance between supports
      B = Width of brick
      d = Thickness of brick

Ord. 1040/4-09
Ord. 1000/5-08
Ord. 1046/7-09

5. Soil: The soil used shall contain not less than twenty-five percent (25%) and not more than forty-five percent (45%) of material passing a No. 200-mesh sieve. The soil shall contain sufficient clay to bind the particles together and shall not contain more than 0.2 percent of water-soluble salts.
6. Classes of Adobe:
   a. Treated Adobes. The term "treated" is defined to mean adobes made of soil to which certain admixtures are added in the manufacturing process in order to limit the adobe's water absorption in order for it to comply with paragraph 10 below. Exterior walls constructed of treated adobe require no additional protection. Stucco is not required.
   b. Untreated Adobes. Untreated adobes are adobes that do not meet the water absorption specifications of paragraph 10 below. This shall hold even if some water absorption protective agent has been added. The determination as to whether an adobe is treated or untreated is to test for compliance with paragraph 10 below. Exterior walls of untreated adobe are allowed but must comply with paragraph 15 requiring Portland cement plaster applied to the outside. Use of untreated adobes is prohibited within four inches (4") above finished floor grade, unless an approved vapor barrier is used between wall and stem. Treated adobes may be used for the first four inches (4") above finished floor grade, without a vapor barrier.
   c. Other types of Adobe. This chapter applies to construction with all types of adobe including rammed earth and poured earth adobe. The types of adobe shall meet the specifications in this Chapter or similar specifications that are approved by the Building Official.
7. Mortar: Where treated adobe is required, mortar shall be treated or may be Type M or S. Where adobes are allowed to be untreated, any adobe mortar may be used and/or Type M, S or N. Mortar "bedding" joints shall be full SLUSH type, with partially open "head" joints allowable if surface is to be plastered. All joints shall be bonded "overlapped) a minimum of four inches (4").
8. Sampling: Each of the tests prescribed in this Section shall be applied to five (5) sample units selected at random from each 5~000 bricks to be used.
9. Moisture Content. The moisture content of the unit shall be not more than four percent (4~) by weight.
10. Absorption: A dried four inch (4") cube cut from a sample unit shall absorb not more than two and one-half percent (2-1/2~) moisture by weight when placed upon a constantly water saturated porous surface for seven (7) days.
11. Shrinkage Cracks: No units shall contain more than three (3) shrinkage cracks, and no shrinkage crack shall exceed two inches (2") in length or one-eight inch (1/8") in width.
12. Use: No adobe shall be laid in the wall for at least three (3) weeks after making, dependent on weather conditions.
13. Foundations: Adobes shall not be used for foundation or basement walls. All adobe walls, except as noted under Group M Buildings, shall have a continuous concrete footing at least eight inches (8") thick and not less than two inches (2") wider on each side than the foundation stem walls above. All foundation walls, which support adobe units, shall extend to an elevation not less than eight inches (8") above the finished grades. Foundation walls shall be at least as thick as the exterior wall as specified in Section 24G5 (1). Where stem wall insulation is used, a variance is allowed for the stem wall width to be two inches (2") smaller than the width of the adobe wall it supports.
14. Bond Beam: All exterior adobe walls shall have a continuous concrete bond beam with a minimum width of ten inches (10") and a minimum depth of ten inches (10"). All concrete bond beams shall be reinforced with a minimum of two (2) No. 4 reinforcing rods.

15. Plastering: All untreated adobe shall have all exterior walls plastered on the outside with Portland cement plaster, minimum thickness of three fourth inches (3/4") in accordance with Chapter 47. Protective coatings other than plaster are allowed, provided such coating is equivalent to Portland cement in protecting the untreated adobes against deterioration and/or loss of strength due to water. Metal wire mesh minimum 20 gauge by one inch (I') opening shall be securely attached to the exterior adobe wall surface by nails or staples with minimum penetration of one and one-half inches (1-1/2"). Such mesh fasteners shall have a maximum spacing of sixteen inches (16") from each other. All exposed wood surfaces in adobe walls shall be treated with an approved wood preservative before the application of wire mesh.
16. Piers: A minimum twenty-eight inch (28") wall Section shall be required between openings and openings shall not be placed within twenty-eight inches (28") of exterior corners.
17. Partitions of Wood: Shall be constructed as specified in Chapter 25, wood partitions shall be nailed to nailing blocks laid up in the adobe wall or bolted through the adobe wall the height of the partition, with one-half inch (1/2") diameter bolts at twenty-four inches (24") on center with large washers or plates, or other approved methods.
18. Wood Lintels: Wood lintels designed to support all imposed loads are permitted up to a maximum span of six feet (6') and shall have a minimum twelve inch (12") bearing.
19. Alternate methods to those provided in this Section (Section 2109.8) may be approved pursuant to Section 104.11 of the International Building Code. Ord. 1000/5-08
20. Stresses: All masonry of unburned clay units shall be so constructed that the unit stresses do not exceed those set forth in Section 2109.8.3. Bolt values shall not exceed those set forth in 2109.8.3.1. Ord. 1000/5-08

B. New residential construction in areas not feasibly served by the Town of Wickenburg water system and/or greater than one thousand feet (1000') from the nearest Town approved fire hydrant, shall comply with the 2006 International Residential Code Appendix "P" as adopted by the Town of Wickenburg, fire sprinkler requirements prior to approval of the residential dwelling building permit.

C. The Town of Wickenburg, through Ordinance No. 1049 amended 2006 International Residential Code Appendix "P" to read as follows: AP101 Fire Sprinklers: An approved automatic fire sprinkler system may be installed in new one (1) and two (2) family dwellings and townhouses, in accordance with Section 903.3.1. of the International Building Code.

D. When an application for approval of a masonry fence wall is filed with the Town, the applicant shall be provided a copy of the *Arizona Masonry Guild Engineering Standards* for masonry fence walls. Plan Review Fees shall be waived for applicants who use these standards. The *Arizona Masonry Guild Standards* may be modified from time to time. Updated Standards shall be kept on file with the Office of the Building Official.

EXHIBIT A -- TABLE R301.2(1) Ord. 1000/5-08

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

Ground Snow Load	Wind Speed (mph)	Seismic Design Category	SUBJECT TO DAMAGE FROM			Winter Design Temp.	Ice Barrier Underlayment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp.
			Weathering	Frost Line Depth	Termite					
0	90	B	Negligible	12"	Moderate to Heavy	32°F	0	Jurisdiction Specific	0	66.7°F

Ord. 1000/5-08
Ord. 1046/7-09
Ord. 1049/7-09
Ord. 1054/10-09

ARTICLE 8-2 ADOPTION OF STATE STANDARDS

A. The standards for curb ramps specified in A.R.S § 9-499.02 shall be observed in the construction of new curbs and replacement curbs in the same manner and to the same extent as provided in the above referenced State Statute.

B. The provisions of Title 34, Chapter 4, Article 1, Arizona Revised Statutes, are hereby incorporated in the Town Building Code in the same manner and to the same extent as required by the above referenced Statute.

ARTICLE 8-3 STREET IMPROVEMENTS

8-3-1 Definitions
8-3-2 Street Improvements Required
8-3-3 Construction In Public Rights-Of-Way; Location & Relocation Of Facilities In Public Rights-Of-Way
8-3-5 Assessment Procedure
8-3-6 Manner of Collecting Unpaid Assessments
8-3-7 Exemptions
8-3-8 Fees
8-3-9 Dedication and Acceptance of Private Roads

Section 8-3-1 Definitions

In this Article, unless the context otherwise requires:

A. "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.

B. "Development" means the construction of residential, commercial or industrial buildings or structures or major additions or alterations to existing residential, commercial or industrial buildings or structures, not including subdivisions, and includes new buildings or structures on property having existing buildings or structures situated on such property. When such property is zoned for agricultural use or single-family residential use at the time of assessment, development shall also require a change of use or purpose. Nothing herein shall be construed to affect, eliminate or modify the requirements of the Town's Subdivision Code, which shall in all cases remain in effect.

C. "Major addition or alteration" means any addition or alteration to an existing building hereafter made where the value of such addition or alteration, as determined by the Building Official for the purpose of establishing the applicable permit fee due under the Town Code, is twenty-five percent (25%) or more of the value of the building before such addition or alteration is started.

D. "Owner" means the individual, corporation, partnership, trust or other legal entity that owns property adjacent to the street right-of-way.

E. "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.

F. "Street improvements" include, but are not limited to, asphaltic concrete surfacing, aggregate base, Portland cement concrete, curb and gutters, sidewalks, valley gutters, storm drainage facilities and irrigation tilling.

G. "Street" means the full width of the right-of-way of any road, street, highway, alley, land or pedestrian walkway whether or not said road, street, highway, alley, land or pedestrian walkway has been improved or accepted for maintenance by the Town.

Rev. 8/85
Ord. 979-5/07
Ord. 1004-6/08

Section 8-3-2 Street Improvements Required Ord. 1028/2-09 (A)

A. At the time of development of property within the Town, the proprietor or owner of the property shall dedicate rights-of-way and easements and construct street improvements within and adjacent to such property in accordance with Town requirements. Dedications and street improvements shall not be considered complete until the Town Council, upon recommendation of the Town Engineer and Public Works Director accepts such dedications and improvements into the Town's Street System. If accepted, the Town Clerk shall then record such dedications and improvements in the Maricopa County Recorder's Office.

B. If the Council determines that street improvements within or adjacent to the property are necessary before the development of the property, the Council may order street improvements to be constructed by the Town as provided in Section 8-3-4 of this Article.

C. If, in the opinion of the Town Engineer, the installation of street improvements would not be feasible from an engineering standpoint at the time of development, the installation of such improvements may be temporarily deferred provided a cash bond, irrevocable letter of credit or similar instrument as approved by the Town Attorney is deposited with the Town for the cost of such improvements. Estimated costs of the street improvement shall be established by the owner/developer's engineer and reviewed and approved by the Town Engineer.

D. Notwithstanding the provisions of Subsections A and B of this Section, an owner may apply to the Council for partial or total waiver of the requirements set forth in Subsections A and B of this Section. Upon such application, the Town Council may waive a part or all of the street improvements and/or the posting of bonds or furnishing of security, if the Council reasonably determines that all or a portion of the improvements normally required under this Section will be constructed by the Town or some other owner, developer or subdivider within a reasonable time in the future.

E. This Section shall not apply to subdivisions, which in all cases shall be governed by the Town's Subdivision Code.

Section 8-3-3 Construction In Public Rights-Of-Way; Location & Relocation Of Facilities In Public Rights-Of-Way Ord. 1004-6/08

A. Permit Required; Contents of Application

It shall be unlawful for any permittee to construct, reconstruct, repair, alter, or grade within the public rights-of-way without first obtaining a permit from the Public Works Department as provided in this Section and complying with the Zoning and Subdivision Codes of the Town. An applicant for a permit shall file with the Town an application showing:

1. Name, address and license number of the party doing the work.
2. Location of the work area.
3. Plans attached to the application showing details of the proposed construction. Such plans shall be prepared and sealed by an engineer registered and licensed in the State, unless the permittee demonstrates to the satisfaction of the Town that the work does not warrant imposing this requirement.
4. A traffic control plan in accordance with Subsection b.
5. Estimated cost of alteration.
6. Such other information as the town finds reasonably necessary to determine compliance with Town Codes.

B. Traffic control

1. Traffic Control Plans. A permittee shall submit a traffic control plan application to the Town at least two (2) business days prior to the proposed start date of construction activities. The traffic control plan application must include a traffic control plan. The traffic control plan must be designed and submitted by a certified member of the American Traffic Safety Services Association (ATSSA).

Ord. 1004-6/08
Ord. 1028/2-09

2. Traffic control manual. The Town designates the Phoenix Barricade manual (1998 edition) as a public record and hereby adopts the Phoenix Barricade manual (1998 edition) three copies of which are on file in the Town Clerk's office as the Town's Official Traffic Control manual for Construction Work Zones with the following changes:

(a) Arrowboards are required for all lane closures on arterial streets.

(b) Lane closures on arterial streets are not permitted between 5:30 a.m. and 8:30 a.m. or between 3:30 p.m. and 7:00 p.m. unless previously approved by the Traffic Engineer or Public Works Director.

(c) A permittee shall hire a uniformed off-duty police officer to be present when construction activities take place within three hundred (300) feet of a signalized intersection or if required by the engineer. Permittee's must arrange for a police officer five (5) calendar days in advance of planned construction activities.

C. Fees

Plan checking fees and inspection fees as established by the Council by resolution shall be paid prior to issuance of a permit. Such fees shall be reasonably related to costs directly incurred in providing services relating to the administration of the permits.

D. Location and Relocation of Facilities in Public Rights-Of-Way

1. General. If the work to be performed in a public right-of-way involves the installation, construction, erection, replacement or relocation of any facilities, a permit must be obtained from the Building Department/Public Works Department. Such permit shall be issued on such conditions as are reasonable and necessary to ensure compliance with the terms and conditions of Town Codes. The application shall include all information required in Subsection B. Each permittee is responsible for ensuring that its facilities are installed, constructed and maintained in strict accordance with Town Codes; that all required licenses, franchises and other permits are applied for and obtained before any work commences; and that the terms and conditions thereof are strictly followed. Where a facility is used by more than one permittee, each permittee is fully responsible for ensuring that all requirements are satisfied. Facilities shall be installed, constructed and maintained so that no additional provision of this Code, the Zoning Code or the Subdivision Code, or the provisions of any license, permit, or franchise issued by Town, this shall require, at a minimum, compliance with the provisions of this Subsection.

2. Joint use of trenches. In order to minimize degradation of streets, traffic impacts and other interference with the use of public rights-of-way, work shall be coordinated so that to the greatest extent possible, consistent with economic feasibility, joint trenching is utilized. The Public Works Department shall adopt rules to facilitate joint trenching in the public rights-or-way.

3. Traffic safety. The facilities to be constructed, installed, operated, and maintained by the permittee shall be so located or relocated as to interfere as little as possible with traffic or other authorized uses over, under, or through the public rights-of-way. Those phases of construction relating to traffic control, backfilling, compaction, and paving, as well as the location or relocation of said facilities shall be subject to regulation by the Town Council.

4. Records. The permittee shall keep accurate records of the location of all facilities in the public rights-of-way and furnish them to the town upon request or at such periodic intervals as the Town may require. In order for the Town to regulate users in the public rights-of-way, upon completion of new or relocation construction of underground facilities in the public rights-of-way, the permittee shall provide the Town with the location of the underground and above ground facilities in a format compatible with the current Town mapping format.

5. Restoration. Whenever the permittee shall cause any opening or alteration to be made for any purpose in any public rights-of-way, the work shall be completed within a reasonable time, and the permittee shall, without expense to the Town and upon completion of such work, restore the property disturbed in a manner consistent with the Town's adopted standards, or as required by its permit, license, or franchise which may incorporate special standards when required for Town purposes. Landscaping, whether in the public rights-of-way or on private

✂Ord. 1004-6/08

property, which is damaged by a permittee shall be restored to its condition as it existed prior to the work. A permittee shall exercise special care when working near established trees or shrubs. If established trees or shrubs die within six (6) months of completion of work by a permittee, it is presumed that the permittee caused such damage if the work performed was in the location of the roots of such tree or shrub.

6. Town's facilities. The installation, use and maintenance of the permittee's facilities within the public rights-of-way authorized herein shall be in such a manner as not to interfere with placement, construction, use, and maintenance of public rights-or-way, street lighting, water pipes, drains, sewers, traffic signal systems, or other utility systems that have been, or may be, installed, maintained, used or authorized by the town. Upon the Town's request, the permittee's facilities will be relocated at permittee's expense (unless state law expressly requires otherwise). Upon the Town's request, by a time specified by the Town, if the permittee fails to move its facilities, the Town may do so and will bill the permittee the costs of relocation and the permittee shall pay those costs within thirty (30) days after its receipt of the invoice. Further, the permittee shall reimburse the Town any additional cost the Town incurs due to the delay in location or relocation of the permittee's facilities, including all design and construction costs.

7. Interference. The permittee shall not install, maintain, or use any of its facilities in such a manner as to damage or interfere with facilities of another located within the public rights-of-way.

8. Location and maintenance of above-ground facilities. The Town shall approve the location of aboveground facilities, such as boxes, cabinets and similar equipment or appurtenances. The permit shall set forth the location of such aboveground facilities. If the Public Works Director determines that a proposed location would impair traffic visibility or visibility of existing signage or would substantially harm existing landscaping, or that similar conditions exist which would justify a denial of a permit in that location, the permit shall be denied. Aboveground facilities shall be maintained in good condition. If the Town finds any of permittee's above-ground facilities are not maintained in good condition, permittee shall correct such condition within three (3) business days of receiving notice from the Town.

9. Undergrounding of new utilities.

No new poles and wires shall be erected in the Town above the surface of the ground unless a permit is first secured from the Public Works Department, except that the following construction may be installed without such a permit:

(a) 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 other function where the facilities will be installed for a temporary period only;

(b) Pad-mounted transformers or pull boxes, service terminals, pedestal-type telephone terminals, telephone splice closures, or similar on-the-ground facilities normally used with and as part of an underground electric distribution, telephone, data, telegraph or television system, or on-the-ground facilities attached to existing overhead facilities which are used for the purpose of connecting an underground system with the existing facilities;

(c) Transmission lines, together with related switch yards, substations and related equipment.

10. Plans. All facilities shall be installed per plans prepared by a registered professional engineer. The Town shall approve all plans before the work commences. A permittee may install facilities on existing utility poles or in existing conduit where permission is granted by owner of the utility pole or conduit, and such permission is verified by the Town except where those same poles are scheduled to be replaced with buried facilities. The Town may require the permittee to prove that it has such permission from the owner to use the owner's facilities. No new poles, or longer poles, will be permitted in the public rights-of-way for any new facilities. If permittee installs facilities on existing poles as provided herein, the permittee shall bury its facilities if such poles are removed and not replaced in kind for any reason. If the permittee makes use of existing conduit of another person, the permittee shall be subject to the provisions of this Section in the use of such conduit in the public rights-of way. As used herein, a pole installed to replace a damaged pole shall not be considered to be a new pole.

✂Ord. 1004-6/08

11. Insurance, bonding. Each permittee must obtain and maintain such insurance, bonding, and security fund requirements as specified by the Town, or if no specific requirements are specified, as are required by the Town for similar facilities. No work shall commence unless these requirements have been satisfied, and the Town may require the permittee to remove or stop work on facilities or require a permittee to cease using the facility, when any insurance, bonding and security fund requirements are not satisfied.

12. Repairs. A permit shall be obtained from the Public Works Department prior to a person removing, relocating, or reconstructing, if necessary, any portion of a person's facilities. Notwithstanding the foregoing, the Town understands and acknowledges there may instances when a person is required to make repairs, in compliance with federal or state laws, that are of an emergency nature. The permittee will notify the Town prior to such repairs, if practicable, and will obtain the necessary permits in a reasonable time after notification.

13 Conflict with Town projects.

(a) Identification of conflict. If, during the design process of public improvements, the Town discovers a potential conflict with proposed construction, the permittee shall either:

(1) Locate and, if necessary, expose its facilities in conflict; or

(2) Use the one-call notification center ("blue stake") to locate or expose its facilities. The permittee shall reimburse the Town for the cost resulting from the use of such location service. The Town shall make reasonable efforts to design and construct projects pursuant to this Section so as to avoid relocation expense to the permittee. Permittee shall furnish the location information in a timely manner, but in no case longer than ten (10) calendar days from the Town's request.

(b) Priority Right. The Town reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, re-grade, widen, realign, or maintain any public rights-of-way, Aerial, surface, or subsurface improvements, including, but not limited to, traffic control conduits, storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the public rights-of-way.

(c) Relocation. When the Town invokes its prior superior right to the public rights-of-way, the permittee shall move its facilities located in the public rights-of-way, at its own cost, to such a location as the Town directs.

(d) Procedures. If, during the course of the project, the Town determines permittee's facilities are in conflict, the following shall apply.

(1) Prior to the Town notice to proceed to contractor: the permittee shall, within a reasonable time, but in no event exceeding one (1) month, remove or relocate the conflicting facility. This time prior shall begin running upon receipt by the permittee of written notice from the Town. However, if both the Town and permittee agree, the time frame may be extended based on the requirements of the project.

(2) Subsequent to Town notice to proceed to contractor: the Town and the permittee will immediately begin the coordination necessary to remove or relocate the facility. Actual construction of such removal or relocation is to begin no later than seventy-two (72) hours, if practicable, after written notification from the Town to proceed.

14. Damage to Town rights-of-way and facilities.

(a) If, in the installation, use, or maintenance of its facilities, the permittee damages or disturbs the surface or subsurface of any public rights-of-way or adjoining public property, or the public improvement located thereon, therein, or thereunder, the permittee shall promptly, at its own expense, and in a manner acceptable to the Town, restore the surface or subsurface of the public rights-of-way or public property, or repair or replace the public improvement thereon, therein, or thereunder, in as good a condition as before such damage or disturbance. If such restoration, repair or replacement of the surface, subsurface, or any structure located thereon, therein, or thereunder is not completed within a reasonable time, or such repair

or replacement does not meet Town standards, the Town shall have the right to perform the necessary restoration, repair, or replacement, either through its own forces, or through a hired contractor, and the occupant agrees to reimburse the town for its expense in so doing within thirty (30) days after receipt of the invoice therefore.

(b) The permittee shall reimburse the town for all reasonable costs arising from the reduction in the service life of any public road or pavement damage, if required by any other Town ordinances or resolutions, resulting from pavement cuts of permittee. Permittee agrees to pay such costs within thirty (30) days from the date of issuance of an invoice from Town. *Ord. 1140/6-14

15. Relocation of facilities.

(a) General. The Town shall not bear any cost of relocation of existing facilities, irrespective of the function served, where the Town facilities or other facilities occupying the public rights-of-way under authority of a Town permit, license, or franchise which must be relocated, are already located in the public rights-of-way and the conflict between the permittee's potential facilities and existing facilities can only be resolved expeditiously as determined by the town by the movement of the existing Town or other approved facilities.

(b) Delay. If permittee's failure to keep or provide accurate records to Town or if permittee's relocation effort so delays construction of a public project causing the Town to be liable for damages, the permittee shall reimburse the Town for those damages attributable to the delay created by the permittee.

(c) Town Costs. Except as otherwise provided in a license, franchise, or permit, or by other provision of law, the entire cost of relocation shall be borne by the Town if the permittee is required by the Town to relocate facilities which are located in private easements obtained by the permittee prior to the dedication of the public rights-of-way from which facilities must be relocated. These prior rights of the permittee would also be unaffected by any subsequent relocation. "prior rights" as used in this Subsection means private easement or other legally sufficient rights obtained by the permittee prior to the dedication of the public rights-of-way from which the facilities are requested by the Town to be relocated.

16. Rights reserved to Town.

Without limiting the rights that the Town might otherwise have, the Town hereby expressly reserves the following rights, powers and authorities:

(a) To exercise its governmental powers now or hereafter to the full extent that such posers may be vested in or granted to the Town.

(b) To determine any question of fact relating to the meaning, terms, obligations, or other aspects of this section and the instruments issued under this section.

(c) To grant multiple, non-exclusive licenses, franchises, or permits within the Town to other persons.

17. Town police power; continuing jurisdiction.

(a) Police power. The permittee shall at all times be subject to all lawful exercise of the Police power by the Town, including any and all ordinances, rules or regulations which the Town has adopted or may adopt, and all laws, rules, regulations, order, and policies of the State and the United States Government. Any conflict between the provisions of this Section and other provisions of the Town Code, the stricter requirement shall apply.

(b) Continuing jurisdiction. The Town shall have continuing jurisdiction and supervision over any facilities located within or on public rights-of-way. However, it is recognized that the daily administrative, supervisory, and enforcement responsibilities of the provisions of this Article and any license or franchise shall be delegated and entrusted to the Town Manager or Director of Public Works to interpret, administer, and enforce the provisions of this Section, and to promulgate standards regarding the construction, reconstruction, relocation, maintenance, dismantling, abandonment, or use of the facilities within the public rights-of-way.

*Ord. 1004-6/08 *Ord. 1140/6-14

18. Violation

From and after the effective date of this ordinance, it shall be unlawful for any person to occupy the public rights-of-way unless the person is in compliance with the provisions of this Section and any other applicable ordinance, license, franchise or requirement.

Section 8-3-4 Street Improvements Constructed Prior to Development; Assessment Policy

When the Council has determined that streets within the Town are necessary before development of the property, the Council may order street improvements to be constructed by the Town at the Town's expense. Such expense shall be assessed against the adjacent property subject to the following:

A. The assessment of property, if adjacent arterial streets are involved, shall not exceed the cost of improving more than one-half (½) of the width or more than one thousand (1,000) lineal feet of such adjacent arterial street.
B. The assessment of property shall not exceed the actual costs incurred by the Town at the time of construction.

Section 8-3-5 Assessment Procedure

The Council, at a public hearing, shall determine the necessity of street improvements if the cost thereof is to be assessed against the adjacent property. Notice of said hearing shall be given to the owners, and other affected persons who would be assessed for the cost of improvements, by regular mail no less than ten (10) days prior to the date of the hearing. Notice of hearing shall contain:

A. A description of the proposed street improvement.
B. The estimated cost of assessment for each affected parcel.
C. The date, time and place that the Council intends to consider the necessity of street improvements and adoption of a resolution of intention. Notice shall also be published in accordance with the provisions of A.R.S § 39-204 and shall also be conspicuously posted along the line of the proposed improvement at least ten (10) days prior to the hearing on necessity of the improvements.
D. The property owners and any other persons directly interested in proposed street improvements or 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.
E. At the time of public hearing, the governing body 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 re-mailing new notices.
F. At the conclusion of the hearings, the Council may pass its resolution of intention directing that plans, specifications and estimates of the cost and expenses of the proposed improvements be prepared by the Town Engineer and filed with the Town Clerk in order that a call for sealed bids be made.
G. 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 8-3-4 of this Article. Notice of this public hearing shall be given to the property owner, and other affected persons who would be assessed for the cost of improvements, by regular mail at least ten (10) days prior to the date of the hearing. This notice shall contain:
   1. A description of the street Improvement; and
   2. The amount of the proposed assessment for each affected parcel of property.

H. 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 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.

I. 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.

J. 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 recordings squall be notice to all persons interested in the contents of the record.

K. Any assessment made under this Section shall abate if the property has not been developed within ten (10) years of the assessment.

L. 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, including assumption by the Town of all or part of the cost of street improvements.

Section 8-3-6 **Manner of Collecting Unsaid Assessments**

At the time of development of the property adjacent and abutting such improvements, the 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.

Section 8-3-7 **Exemptions**

Street improvements otherwise required by this Article shall not be required as follows:

A. The street improvements required in Section 8-3-2 shall not be required where the property is zoned R1-35 (single-family residential), R1-12 (single-family residential) or R1-6 (single-family residential), except that if the property is a subdivision the Town's Subdivision Code shall apply.

B. Street improvements shall not be required where the constructions alteration or addition consists solely of installation or replacement of mechanical equipment.

C. Street improvements shall not be required where additions or alterations to a building are less than twenty-five percent (25%) of the value of the building before the addition or alteration is started. The first time a value determination is made after March 5, 1984, for the issuance of a permit to add or alter a building, that value from that time henceforth shall be used. Whenever the subtotal of all alterations and additions from that time exceeds twenty-five percent (25%) of the determined value, street improvements shall be required. Each and every addition or alteration shall be added to the other to determine the applicable percentage.

Section 8-3-8 **Fees**

A. There shall be a plan review fee of fifty dollars ($50.00) per page for all plans submitted by an owner for street improvements under this Article.

B. All street improvements shall be inspected. Owner shall pay the actual costs of all inspections required by the Town. Prior to issuance of a Building Permit, owner shall deposit with the Town an amount of money, as determined by the Building Official, equal to the estimated cost of making the inspections. If the actual cost of

making the inspections is less than the amount deposited by owner, the balance shall be returned to owner. If the actual cost of making the inspections is greater than the estimated cost of making the inspections, the owner shall pay to the Town the difference.

Section 8-3-9 **Dedication and Acceptance of Private Roads** Ord. 979-5/07

This Section sets forth Town requirements for acceptance of private roadways into the Town's street and road system as follows:

1. A written request shall be filed with the Public Works Director identifying the private roadway proposed to be accepted into the Town's street and road system. The Public Works Director shall review the request and determine whether the private roadway shall be accepted.

2. If the Director of Public Works determines that the private roadway should be accepted into the Town's street and road system, the Town will pay the cost of hiring a surveyor to prepare the legal description for the proposed public right-of-way and the cost of any required title search to establish ownership of said right-of-way.

3. All owners of property adjacent to the proposed right-of-way shall dedicate the right-of-way to the Town at no cost to the Town. The right-of-way dedication shall be in fee simple and shall include any utility easements required by the Town.

4. Upon completion of Steps 2 and 3 above, the Town will begin road grading to upgrade the condition of the road.

5. Any phases of additional roadway improvements including, but not limited to chip seal, double chip seal, or hot mix asphalt surfacing shall be reviewed by the Public Works Director and final determination shall be made by the Wickenburg Common Council.

6. Any additional phases of roadway improvements shall require a written agreement between the Town and adjacent property owners who will be responsible for paying the cost of said additional improvements setting forth the terms and conditions of payment for design and construction of the improvements. Design and construction shall not begin until 100% of the estimated cost of design and construction of the roadway is deposited with the Town as determined by the Public Works Director. The deposit for the design and construction of the roadway shall be placed in a special account and used only for such purposes. If the actual cost of design and construction is greater than the estimated cost, the property owners who are parties to the agreement shall pay such additional cost. If the actual costs of design and construction is less than the estimated cost, the Town shall refund the balance of the deposit to the property owners in proportion to the amount they deposited.

7. Any and all utility improvements will be considered at a future date; however, the proposed right-of-way shall allow for future utility needs as set forth in paragraph 3.

Ord. 979-5/07

ARTICLE 8-4 RESERVED FOR FUTURE USE (Page 65.5)

CHAPTER 9 BUSINESS CODE

(Revised Ord. 1175/05-17)

ARTICLE 9-1 BUSINESS LICENSE

9-1-1 License Purposes and Requirements
9-1-2 Application and Issuance
9-1-3 Application Procedure
9-1-4 Standards for Issuance
9-1-5 Term of License
9-1-6 Number of Licenses
9-1-7 License to be Exhibited
9-1-8 Officer of Business Licenses
9-1-9 Duties and Powers of Officer
9-1-10 Transfer of License
9-1-11 Prorating Prohibited
9-1-12 Expiration of License
9-1-13 Business License Fees
9-1-14 Denial of Business License or Non-Renewal of License
9-1-15 Revocation of Business Licenses
9-1-16 Mobile Sales License Regulations

Section 9-1-1 License Purpose and Requirements

~~A.~~ The purpose of this Chapter is to provide the Town with records of names, addresses and other data of all persons, corporations, firms and companies conducting business in, or affecting residents or businesses located in the Town; to enable the Town, in conjunction with Maricopa and Yavapai Counties, the State of Arizona and the United States of America, to enforce its various tax laws, accumulate demographic data for use by the Mayor, Common Council and Town staff for use in adopting ordinances, resolutions, motions and other legislation, including rules and regulations; to promote the health, welfare and safety of its residents and other members of the general public by providing information to the Police, Fire and other emergency agencies for use in their efforts to enforce laws, prevent crimes, fires and accidents; and further to allow for a system of cross-references and cross-filing of business entities for use in locating responsible parties in cases of emergencies in order to not only facilitate safety personnel in locating persons to assist in reducing hazardous events and evacuation plans, but also to establish responsibility for assessment of fines and other enforcement action by not only the Town but also the State and Federal officials and agencies. It is not the purpose of this Chapter to endorse or represent to the general public, any business entity, person, firm, corporation or company that such is qualified to furnish materials, retail or wholesale, the quantity or quality thereof of merchandise or services, whether occupational, technical or professional, it being hereby declared that any License issued pursuant to this Chapter in no way is to be interpreted or relied upon as affirming or even suggesting that the Licensee is qualified to perform the services for which the Licensee is authorized, or that the tangible items or material sold or supplied by the Licensee is of merchantable quality or quantity.

B. It is unlawful for any person, whether as principal or agent, either for himself or for another person, or for any corporation, or as a member of any firm or co-partnership, to commence, practice, transact or to carry on any trade, calling, profession, occupation or business within the Town limits without first having procured a Business 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 the proof by the applicant of such compliance and verification by the License Officer or designee that no violation of the Town's zoning regulations will occur by such issuance.

C. The practicing or carrying on of any trade, calling, profession, occupation or business by any person, corporation or partnership without first having procured a Business 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 Chapter shall constitute a separate violation of this Chapter for each and every day that such trade, calling, profession, occupation or business is practiced, carried on or conducted within the Town.

D. Any where in this Article where it states License Officer or Town Manager it shall be understood that also means the License Officer or his/her designee.

E. The only exceptions to the aforementioned Licensing requirements shall be: * Ord. 1148

1. Nonprofit organizations legally organized and able to provide documentation and agencies of any federal, state or local governments.

2. Fundraising projects of nonprofit and bona fide religious organizations, not conducted on a regular basis.

3. Newsboys for the sale of newspaper subscriptions.

4. Title Companies per Arizona State Statutes.

F. **Street Sales Prohibited:** It is unlawful for any person to erect or maintain any booth, stand, groundcover, table, or counter on any sidewalk, street, alleyway or right-of-way in the Town for the purpose of barter, sale or trade; or keep or maintain upon the sidewalk, right-of-way, street or alleyway any movable booth, table, groundcover, counter or stand for the purpose of barter, sale or trade without first obtaining permission from the Town Manager unless authorized through the issuance of a "Special Event Permit" or contract.

Section 9-1-2 Application and Issuance

A. It shall be the duty of the License Officer upon receipt of a properly completed application for a Business License and verification of the data contained thereon including zoning (land use) clearance, to prepare and issue a License under this Chapter for every person, corporation or partnership required to pay a Business 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 permitted and the location or place of business where the trade, calling, profession, occupation or business is to be carried on, transacted or practiced.

B. In no case, shall any mistake made by the License Officer 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.

*Ord. 1148/04-15

C. No greater or lesser amount of money shall be charged or received by the Licensing Officer for any License than is provided for in this Chapter, and no License shall be issued for any period of time other than as provided herein.

D. All charges for a License required by this Chapter shall be paid in advance and in lawful money of the United States of America at the Office of the License Officer.

Section 9-1-3 Application Procedure

All applicants for a Business License required by this Chapter shall file a written, sworn application with the License Officer. Such application shall be signed by the applicant if an individual, or by a partner if a partnership, or by the president if a corporation. The application shall be made on forms available in the Office of the License Officer and include, but may not be limited to, the following information: business trade name, address of business, business physical location and mailing addresses, email address, business owner, home street address, home telephone number, business telephone number, fax number, exact nature of the business, number of employees, date the business will begin in Town, signature of the applicant certifying the statements to be true and correct, title of the applicant and date signed.

Section 9-1-4 Standards for Issuance

A. The Arizona Employer Sanctions Law (Laws 2007, Chapter 279) restricts the Town's authority to issue Business Licenses to those applicants lawfully present in the United States. Unless the applicant is exempt as described in Subsection b., below, the Town may not issue a Business License to an individual unless that individual presents any one of the following documents:

1. Arizona Driver's License issued after 1996 or an Arizona Non-Operating Identification License;
2. Driver License issued by any State that verifies lawful presence in the United States;
3. Birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;
4. United States certificate of birth abroad;
5. United States passport;
6. Foreign passport with a United States Visa;
7. Form I-95 with a photograph;
8. United States Citizenship and Immigration Services Employment Authorization document or Refugee Travel document;
9. United States Certificate of Naturalization;
10. United States Certificate of Citizenship;
11. Tribal Certificate of Indian Blood; or
12. Tribal or Bureau of Indian Affairs affidavit of birth.

B. If either of the following apply, an individual is exempt from the requirement that he/she present one of the documents listed in Subsection a., above, prior to being issued a Business License:

1. Both of the following apply:
   a. The individual is a citizen of a foreign country or, if at the time of application, the individual resides in a foreign country; and

b. The benefits that are related to the License do not require the individual to be present in the United States in order to receive those benefits.

2. All of the following apply:
   a. The individual is a resident of another state.
   b. The individual holds an equivalent License in that state and the equivalent License is of the same type being sought in this state.
   c. The individual seeks the Arizona License to comply with this State's Licensing Laws and not to establish residency in this state.

C. If a document listed in Subsection "a" does not contain a photograph of the individual, the individual shall also present a government issued document that contains a photograph of the individual.

D. The License Officer shall approve the application within seven (7) days, unless there is evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, or general welfare of the town and its residents. The following will constitute valid reasons for disapproval of an application:

1. Fraud, misrepresentation or false statement contained in the application for a Business License.
2. Any violation of this Chapter or failure to meet any licensing requirements, including timely payment of fees.
3. Conducting a business in violation of any federal, state, county or local law.
4. The Licensee is a corporation and is no longer qualified to transact business in the state.
5. The applicant cannot provide satisfactory proof that he/she/it is authorized to hold a Business License pursuant to the Employer Sanctions Law (Laws 2007, Chapter 279).

E. Transaction Privilege Tax Required. Application fees levied in this Chapter shall be in addition to transaction privilege taxes required by Chapter 9A of this Code. Failure of an applicant or Licensee to comply with Chapter 9A shall be sufficient grounds for denial of a Business License application or revocation of any Business License.

Section 9-1-5 Term of License

The charge for annual Business Licenses provided herein shall become due and payable on the first business day in January of each year and shall expire on the last day of December each year, except: (A) 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 Business License is required by this Chapter.

Section 9-1-6 Number of Licenses

A. A separate charge for a Business 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 (1) trade, calling, profession, occupation or business is carried on, transacted or practiced by the same person, corporation or partnership at one (1) fixed place of business, only one (1) Business 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 Business License issued. However, there shall be no more than three (3) total trades, callings, professions, occupations and/or businesses at one (1) fixed place of business owned by one owner or corporation.

C. When more than one (1) 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 Chapter.

Section 9-1-7 License To Be Exhibited

A. Each person, corporation or partnership having a Business 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 no fixed place of business shall carry such License with him 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 him a copy of the License which has been issued by the License Officer and plainly marked or stamped "Duplicate."

C. Each person, corporation or partnership having a Business License shall produce and exhibit the same whenever requested to do so by any Peace Officer of the Town or by the License Officer.

Section 9-1-8 Officer of Business Licenses

A. The License Officer shall be Officer of Business Licenses for the Town.

B. The License Officer, immediately upon the facts coming to his/her knowledge, shall investigate the name of any person, corporation or partnership thought to be carrying on, transacting or practicing any trade, calling, profession or business within the Town without first having obtained a Business License as required by this Chapter.

Section 9-1-9 Duties and Powers of License Officer

A. The License Officer, each in the discharge and performance of his/her duties, shall have and exercise the following powers:

1. To request assistance and/or an investigation for a possible arrest through a Peace Officer of the Wickenburg Police Department for any violation of the provisions of this Chapter.

2. To enter, free of charge and at any reasonable time, any place of business for which a Business License is required by this Chapter pursuant to Arizona Revised Statutes §9-833. This Statute includes, in part, the following requirements for inspections:

a. A municipal officer of the Town who enters any premises of a regulated person for the purpose of conducting an inspection shall present photo identification on entry of the premises; state the purpose of the inspection and the legal authority for conducting the inspection; afford the regulated person time to obtain an authorized onsite representative to a company the municipal officer on the premises; provide copies of original documents if officer takes any documents from premises; if inspection is tape recorded, all parties shall be advised of same; name and telephone number of municipal contact person available to answer questions regarding the inspection and appeal process shall be provided the regulated person; provide regulated person a copy of inspection report within thirty (30) days of inspection.

3. To designate a qualified person to carry out all or a portion of the duties and responsibilities of the License Officer set forth in this Chapter.

B. When the charge for any License required hereunder shall remain unpaid for twenty-one (21) days from and after the due date, such charge shall be delinquent, and the License Officer, on the day upon which said charge becomes delinquent, shall add thereto an amount equal to twenty-five percent (25%) of said charge as a penalty, and no receipt or License shall be issued thereafter by the License Officer until the charge and penalty shall be paid in full. If the account remains delinquent for a period exceeding thirty (30) days, the penalty shall be pursuant to Article 1-8 PENALTY of the Wickenburg Town Code.

Section 9-1-10 Transfer of License

No Business License issued under the provisions of this Chapter shall be assigned or transferred to any other person, corporation or partnership; Town Business Licenses are non-transferable.

Section 9-1-11 Prorating Prohibited

No Business License fee herein provided shall be prorated.

Section 9-1-12 Expiration Of License

All Business Licenses issued shall be issued for a period no longer than one (1) calendar year. All Licenses issued under this Chapter shall expire at 11:59 p.m. of the last day of the calendar day and/or year during which the Business License was issued.

Section 9-1-13 **Business License Fees** *Ord. 1140

The town council shall establish the fees for business licenses by resolution. The length of license shall be as follows:

#	FEE	LENGTH OF LICENSE	TYPE OF BUSINESS TO BE CONDUCTED
A.		One Calendar Year	Any permanent standard business being conducted within the Town limits of Wickenburg with or without a fixed place of business including home occupations
B.		One Calendar Year	Any permanent standard business being conducted within the Town limits of Wickenburg with a fixed place of business that serves and/or sells liquor
C.		Per Day	Temporary license for not more than seven (7) consecutive days per month for door-to-door, business-to-business type activity
D.		For Up To 4 Consecutive Days	Temporary "Special Event Permit" for not more than four (4) consecutive days per month for individual vendors with approved Special Event Permit application from Town
E.		Ongoing	Non-Profit Organizations; Newspaper Sales; Title Companies (Per State Statutes)
F.		October, November, December – New Year, January, February, March And April	Seasonal license for any standard business being conducted within the town limits of Wickenburg with or without a fixed place of business including home occupations for not more than seven (7) months. **Ord. 1147

Section 9-1-14 **Denial Or Non-Renewal Of Business License Process**

A. Upon receipt of a Business License application, if the License Officer determines that grounds exist to deny or not renew a Business License, the License Officer shall notify the applicant or Licensee in writing of the intent to deny or not renew the License, including a summary of the grounds for the action. The notification shall be sent by certified mail to the address on file. The applicant or licensee shall have ten (10) business days from receipt of the written notice to petition the License Officer, in writing, including a statement of reasons why the License should not be denied or should be renewed and request a hearing. If a response is not received by the License Officer in the time stated, the denial or non-renewal shall be final and notice of such shall be sent to the applicant or Licensee. If a response is received by the License Officer, the License Officer, within five (5) business days of receipt of the response, shall either withdraw the intent to deny or not renew or shall schedule a hearing before the Town Manager and shall notify the applicant/Licensee in writing by certified mail of either the withdrawal or of the time, place, and date of the hearing. The hearing shall be conducted in an informal manner. The applicant/Licensee may be represented by counsel. The rules of evidence shall not apply. The Town Manager shall issue a written decision within five (5) business days after the completion of the hearing and shall mail a copy of the decision by certified mail to the address of the applicant/Licensee on file. In no event shall more than forty-five (45) calendar days elapse between receipt by the License Officer of a request for hearing and mailing by the Town Manager of the final decision unless the applicant/Licensee consents, in writing, to additional time. In the case of an intent to deny or

non-renew a License, the applicant/Licensee may continue to conduct business under the License pending receipt of the final decision of the Town Manager subject to all restrictions set forth in this Chapter and Town Code, State and Federal law. The decision shall be final at the end of five (5) business days after it is postmarked and shall constitute final administrative action.

B. A final administrative decision to deny or not renew a Business License may be appealed to the Maricopa County Superior Court by Special Action or other available procedure. The Town shall consent to expedited hearing and disposition.

*1140/6-14 **1147/4-15

Section 9-1-15 Revocation Of Business License

A. A Business License granted under this Chapter may be revoked for any of the following reasons:

1. Any fraud or misrepresentation contained in the License application;

2. Any fraud, misrepresentation or false statement made in connection with the business being conducted under the License;

3. Any violations of this Chapter;

4. Conviction of the Licensee of any felony or conviction of the Licensee of any misdemeanor involving dishonest or fraudulent intent (moral turpitude);

5. Conducting the business in an unlawful manner or in such a manner as to constitute a menace to the health, safety, morals or general welfare of the public;

6. Receipt of an order to revoke a License or Licenses pursuant to the Employer Sanctions Law (Laws 2007, Chapter 279).

B. If the License Officer determines that grounds exist for revocation of a Business License, the License Officer shall notify the Licensee in writing of the intent to revoke the License, including a summary of the grounds for the action, notification shall be sent by certified mail to the address on file. in the event a License is revoked, the Licensee shall have ten (10) business days from receipt of the written notice of revocation to petition the License Officer in writing, including a statement of reasons why the License should not be revoked and request a hearing. If a response is not received by the License Officer in the time stated, the revocation shall be final and notice of such shall be sent to the Licensee. Within five (5) business days after receipt of a response, the License Officer shall either withdraw the intent to revoke and so notify the Licensee in writing by certified mail or shall schedule a hearing before the Town Manager and shall notify the Licensee in writing by certified mail of the time, place, and date of the hearing. The hearing shall be conducted in an informal manner. The Licensee may be represented by counsel. The rules of evidence shall not apply. The Town Manager shall issue a written decision within five (5) business days after the completion of the hearing and shall mail a copy of the decision by certified mail to the address of the Licensee on file. In no event shall more than forty-five (45) calendar days elapse between receipt by the License Officer of a request for hearing and mailing by the Town Manager of the final decision unless the Licensee consents to additional time. In the case of a revocation of a License, the Licensee may continue to conduct business under the Licensee pending receipt of the final decision of the Town Manager. The decision shall be final at the end of five (5) business days after it is postmarked and shall constitute final administrative action.

C. A final administrative decision to revoke a Business License may be appealed to the Maricopa County Superior Court by Special Action or other available procedure. The Town shall consent to expedited hearing and disposition.

D. A revoked License may not be reapplied for until one (1) year from the anniversary date of when the revocation has expired.

Section 9-1-16 Mobile Sales License Regulations

A. If a mobile merchant sets up on any Town property, they shall provide the License Officer when applying for a Business License the following:

1. Valid driver's license from the State of Arizona; and,
2. Proof of insurance for each mobile vehicle to be used on Town property.

B. When a Business License is issued for a mobile merchant, a copy of the license shall be provided for each mobile unit. The Business License copy shall be kept, at all times when on Town property, in the mobile unit and presented upon request by a Peace Officer or Town Official.

ARTICLE 9-2 REGULATION OF PAWNBROKERS, SECONDHAND, SCRAP AND JUNK DEALERS

9-2-1 Definitions
9-2-2 Pawnbrokers Report
9-2-3 Secondhand, Scrap And Junk Dealers Report
9-2-4 Reports To Be Clear And Legible
9-2-5 Altering Merchandise
9-2-6 Failure to Comply

Section 9-2-1 Definitions

In this Chapter unless the context otherwise requires:

A. "Junk and/or Scrap Dealers" means a person having a fixed place of business within the Town and engaged in conducting, managing or carrying on the business of buying, selling or otherwise dealing in, either at wholesale or retail, old rags, sacks, bottles, cans, papers, metal or other articles commonly known as "junk" and/or "scrap."

B. "Pawnbroker" means a person engaged in conducting, managing or carrying on the business of pawn broking or the business of loaning money for himself or for any other person receiving as security for the repayment thereof pawns or pledges of personal property, or the business of purchasing personal property and selling or agreeing to resell such articles to vendors, their personal representatives or their assignees, at the prices agreed upon at or before the time of such purchase, whether such business be the principal or sole business so carried on, managed or conducted, or merely incidental to, in connection with or a branch or department of some other business.

C. "Pawnshop" means any room, store or place in which a business as defined in Subsection B of this Section is engaged in, carried on or conducted.

D. "Secondhand Dealer" means any person engaged in conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand goods, wares, merchandise or articles, whether such business be the principal or sole business so carried on, managed or conducted, or be merely incidental to, in connection with or a branch or department of some other business.

Section 9-2-2 **Pawnbrokers Report**

A. It is unlawful for any pawnbroker or any employee or agent of any pawnbroker within the Town to fail, neglect or refuse to make out and deliver to the Chief of Police between twenty-four (24) hours and one week/seven (7) days after the receipt thereof, a full, true and complete report of all goods, wares, merchandise or articles received on deposit in pawn or pledge or by purchase. Report forms are available at Town Hall or Police Department in both paper and electronic formats. The electronic format allows a business owner to email the report daily or weekly directly to the Chief of Police. The merchandise must be retained onsite for one week/seven (7) days by pawnbroker after the report is filed with the Chief of Police.

B. Such report shall show the hour of the day and the date when each article was received on deposit, in pawn or pledge or by purchase, and the true name and address, as nearly as the same is known or can be ascertained, the person by whom any goods, wares, merchandise or articles were left or deposited, pawned, pledged or sold together with a description of such person. The description shall be through attaching to the required report a copy of the seller's current and valid driver's license or some type of current photo identification card. Such report shall also show the amount loaned or paid thereon, the quantity or number purchased and a complete description of each article so received including all distinguishing marks thereof.

Section 9-2-3 **Secondhand, Junk - Scrap Dealers Report**

A. It is unlawful for any secondhand dealer and/or collector, junk dealer and/or collector, or scrap dealer and/or collector, within the Town to fail, neglect or refuse to make out and deliver to the Chief of Police, between twenty-four (24) hours and one week/seven (7) days after the receipt thereof, a full, true and complete report of all goods, wares, merchandise or articles received on deposit, in pawn or pledge or by purchase. Report forms are available at Town Hall or Police Department in both paper and electronic formats. The electronic format allows a business owner to email the report daily or weekly directly to the Chief of Police. The merchandise must be retained onsite for one week/seven (7) days by pawnbroker after the report is filed with the Chief of Police.

B. Such report shall show the hour of the day and the date when each article was received on deposit, in pawn or pledge or by purchase, and the true name and address, as nearly as the same is known or can be ascertained by the secondhand dealer/collector, junk dealer/collector, and/or scrap dealer/collector, of such person by whom any such goods, wares, merchandise or articles were left or deposited, pawned, pledged or sold, together with a description of such person. The description shall be through attaching to the required report a copy of the seller's current and valid driver's license or some type of photo identification card. Such report shall also show the amount loaned or paid thereon, the quantity or number purchased and a complete description of each article so received including all distinguishing marks thereof.

Section 9-2-4 **Reports To Be Clear And Legible**

All reports required by the provisions of this Chapter are to be prepared in a clear and legible manner. The reports shall be provided to the Chief of Police between twenty-four (24) hours and one week/seven (7) days; and, available for review by any member of the Wickenburg Police Department upon request.

Section 9-2-5 Altering Merchandise

It is unlawful for any pawnbroker dealer/collector, secondhand dealer/collector, scrap dealer/collector and/or junk dealer/collector to deface, alter, change or destroy, part with, conceal, give away, sell or dispose of any goods, wares, merchandise or articles before one (1) week/seven (7) days has elapsed after preparing a report required by the provisions of this Chapter.

Section 9-2-6 Failure to Comply

Each failure, neglect or refusal to prepare and deliver to the Chief of Police, a clear and legible report as required by this Chapter within the time limits set forth herein, or made available for review by any member of the Wickenburg Police Department upon request and each defacement, alteration, change, destruction, parting with, concealment, gift, sale or disposition of any goods, wares, merchandise or article before one (1) week/seven (7) days has elapsed after the preparation and delivery of such report shall constitute a violation of this Chapter.

ARTICLE 9-3 SPECIAL EVENTS PERMIT

9-3-1 Purpose; Definitions
9-3-2 Special Event Permit Required
9-3-3 Application Process
9-3-4 Conditions
9-3-5 Grounds For Denial
9-3-6 Waivers

Section 9-3-1 Purpose; Definitions

A. The purpose of this Chapter is to establish a process for permitting and regulating certain temporary activities conducted on public property or private property when public safety is potentially impacted. This Chapter is adopted pursuant to the authority of A.R.S. §9-240, as amended, and is intended to provide fair and reasonable regulations governing the time, place, and manner in which a special event may take place, and in doing so, provide for the health, safety, and welfare of the public and assist the Town and its appropriate officers in enforcing applicable provisions of A.R.S. Title 9 and Title 36.

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

1. "Special Event" means any public or private function which:
   a. Requires temporary parking areas; or
   b. Is held in a public park or on public right-of-way; or
   c. Has amplified music or voices which can be heard outside of the event location; or
   d. Requires temporary traffic control to provide for safe ingress and egress to the event venue; or
   e. Requires a Special Event Liquor License; or
   f. Requires temporary sanitation facilities; or
   g. Requires the installation of temporary structures or tents of more than 120 square feet; or
   h. Has other adverse impact on public health, safety and/or welfare.

2. Special Event shall not include:
   a. School functions at school facilities, unless spillover (as defined below) is anticipated; or
   b. Ordinary and customary events at a venue designed to accommodate them.

3. "Major Event" means a Special Event where:
   a. Extra-duty Peace Officers or other security services are used; and
   b. Temporary traffic control is used.

4. "Spillover" means when participants of, or spectators to, a Special Event congregate on, park, or move to any property or right-of-way not associated with the event venue.

Section 9-3-2 <u>Permit Required</u>

Any person or organization wishing to operate, maintain or conduct a Special Event within the Town limits must first obtain a Special Event Permit to do so. The sponsoring organization can apply for a blanket permit for a six (6) month period for reoccurring events on behalf of the individual vendors. Individual vendors shall still be required to pay for a Town Special Event Permit or a regular annual Business License in the case of reoccurring events. No Permit shall be issued until all conditions required pursuant to this Chapter have been met and fulfilled. The maximum number of people permitted at any event will be based upon the nature of the event and the physical capacity of the site where the event will take place.

Section 9-3-3 <u>Application Process</u>

A. Written application to the Town License Officer must be submitted at least 30 days before the first day of the proposed Special Event. Applications for a Major Event must be submitted at least 60 days in advance of the first day of a proposed Major Event.

B. A Special Event that requests donation of Town services or monies shall, in addition to a Special Event Permit, require Town Council authorization by means of a contract. Donated Town services may include, but are not limited to, traffic control, security, refuse pickup, emergency medical services, and utilities.

C. A Special Event application that is requesting donation of Town Services must be in accordance with the following criteria: (Ord. 1175/5-17)

   1. Special Event Permit application must be received more than sixty (60) days before the date of the event
   2. The Special Event must be open to the general public.

D. Any person desiring to operate a Special Event shall file a written application with the Town License Officer which shall contain the following facts and information:

   1. The name, age, residence, and mailing address of the person making the application.

   2. The address or legal description, present zoning of the place or premises where the proposed event is to be conducted, operated or carried on.

3. A detailed description of the event including activities, anticipated attendance, entertainment, and type of retail sales if applicable.

4. The dates for which the Permit is sought.

5. An estimate of the number of customers, spectators, participants and other persons intended, calculated or expected to attend the event for each day it is conducted.

6. A site map or sketch showing the location of the property in relation to surrounding properties, the area to be used, the access to the property and the location of any proposed facilities, parking areas, vending areas, stages and other principal features of the venue.

E. After submitting a Special Event application, a meeting with the Special Events Committee will be scheduled. The Committee meets the second and fourth Mondays of the month, beginning at 8:00 AM. The Special Events Committee is composed of a representative of each division that might be impacted or may need to assist with special event preparations. The Special Event Committee will review the application and may impose conditions related to the potential impact of the event upon the Town's resources and pursuant to this chapter.(Ord. 1175/5-17)

Section 9-3-4 <u>Conditions</u>

A. <u>Noise Standards</u>. It shall be unlawful for any person entity or operation at any Special Event to create any amplified noise, or to allow the creation of any amplified noise, which causes the noise level measured on any residential property outside of the Special Event venue to exceed the noise regulations found in Town Code Section 10-1-11.

B. <u>Sanitation</u>.

1. The applicant shall provide and maintain toilet and hand washing facilities that are adequate for the anticipated maximum attendance and event duration as directed by the Public Works Department and County Health Department.

2. The applicant shall provide and maintain an adequate number of trash receptacles based on the size of the event (square footage), number of projected attendees and nature of event as approved by the Public Works Director. If the event is large enough, arrangements shall be made through the Public Works Department for sanitation pickups at scheduled intervals during the period of the special event.

3. All food vendors shall comply with the requirements of the County Health Department for permits and food handling practices.

C. <u>Security</u>. The applicant may be required, at the applicant's expense, to provide security services, and/or extra duty Peace Officers for event security as determined by the Chief of Police. In making the determination of the need for security services, the Chief of Police shall consider the event nature, anticipated attendance, access to alcohol, ticket for money handling and any other factors deemed relevant. If private security services are to be used, the Chief of Police must approve the security service provider and the security plan for the event. If extra-duty Peace Officers will be used, the Chief of Police will coordinate the hiring of officers and the security plan preparation.

D. <u>Medical Services</u>. The applicant may be required to furnish medical services, on standby, during the entire event based on expected temperatures during an outdoor event, the nature of the event, expected attendance, age of the expected attendees and participants, and accessibility of the event venue to emergency vehicles. In the case medical services are deemed necessary at the event, a Medical Services Plan shall be approved by both the Chief of Police and Fire Chief at least ten (10) days prior to the event start date.

E. Lighting. Events which take place or where attendees may still be present after dark will be required to provide adequate illumination of all use areas, sanitation facilities, parking areas and areas of pedestrian travel. If lighting is required for the event, a lighting plan shall be submitted to the Town Building Official to ensure compliance with Town Code Section 14-19-9.

F. Parking. Adequate parking shall be provided for all Special Events without spillover. In the event temporary parking areas are to be used, a parking layout and circulation plan shall be prepared and submitted to the Community Development & Neighborhood Services Director and routed to the Chief of Police, Public Works Director and Fire Chief. In temporary parking areas, all parking spaces shall be adequately marked and dust control measures shall be performed throughout the event.

G. Traffic Control. Adequate access to the event venue shall be required for the general public and emergency vehicles. If the access points to the event venue do not have adequate capacity for the expected ingress/egress traffic volumes, temporary traffic control measures shall be required. Where temporary traffic control measures are to be utilized, a traffic control plan shall be submitted for approval by the Chief of Police, Public Works Director and Fire Chief.

H. Appropriate Zoning. The Special Event venue shall have the appropriate zoning for the proposed event.

I. Signage. All signage to be employed in the advertisement of the Special Event shall be in compliance with the Town's Sign Code Section 14-18-14 and subject to approval by the Community Development & Neighborhood Services Director.

J. Sales. All event vendors shall hold a current Wickenburg Business License. This includes the applicant if tickets are to be sold. All merchandise and ticket sales are taxable in accordance with the laws of the State of Arizona. Tickets to an event shall not be sold prior to approval of the Special Event Permit issued by the Town.

K. Insurance. The amount and type of insurance required for a Special Event shall be determined on a case by case basis, based upon the recommendation of the Arizona Municipal Risk Retention Pool as insurance provider to the Town. The applicant shall provide at a minimum, $1,000,000 liability and $2,000,000 general aggregate naming the Town of Wickenburg as an additional insured. A Certificate of Insurance shall be provided to the License Officer at least 5 days prior to the event date.

Section 9-3-5 Grounds For Denial

A. After review, by all appropriate Departments, of the application material, the License Officer may deny issuance of Special Event Permit if any of the following applies:

1. The applicant has failed to meet the conditions imposed pursuant to this Chapter;

2. The proposed event is intended to be conducted in a manner or location not meeting the health, safety, zoning, or fire standards established by the rules and regulations of the Town, the laws of the State of Arizona or rules and regulations adopted by any of its agencies;

3. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for the Special Event Permit or in any other document required pursuant to this Chapter;

4. That the applicant, his or her employee, agent or any person associated with the applicant as partner, director, officer, stockholder, associate or manager has been convicted in a court of competent jurisdiction, by final judgment, of an offense:

   A. Involving the presentation, exhibition or performance of an obscene production, motion picture or play, or of selling obscene matter;

   B. Involving lewd conduct which is conduct showing, or intended to excite, lust or sexual desire;

   C. Involving the use of force and violence upon the person of another;

   D. Involving misconduct with a child or children; or

   E. An offense against the provisions of Arizona law respecting narcotics and dangerous drugs or of any equivalent offense under the law of any state which if committed in Arizona would have been a violation of the Arizona statutory provisions.

5. The scheduled date of the Special Event conflicts with other previously scheduled events such that it will result in an undue impact on the Town's resources and staff.

B. Where the application is denied, the License Officer shall mail to the applicant written notice of denial within 3 days of the action. The notice shall include a statement of the reasons the application was denied. The applicant may request a review of this denial by the Town Manager who will schedule a meeting during which the applicant may present evidence in support of the application.

Section 9-3-6 **<u>Waivers</u>**

At the discretion of the Town Manager, application timeline submittal requirements may be waived if found necessary.

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CHAPTER 10 OFFENSES

ARTICLE 10-1 UNLAWFUL ACTS

10-1-1 Dangerous Constructions
10-1-2 Damage to Property
10-1-3 Deposits of Injurious Material on Thoroughfares
10-1-4 Excavations to be Covered
10-1-5 Explosives
10-1-6 False or Misleading Reports to Police
10-1-7 RESERVED FOR FUTURE USE ☼Ord. 1023/12-08
10-1-8 Furnishing Weapons and Other Articles to Prisoners
10-1-9 Littering
10-1-10 Minors
10-1-11 Noise and Fumes
10-1-12 Obstruction of Streets
10-1-13 Interference With Use; Obstruction of View
10-1-14 Offensive Business
10-1-15 Offensive Premises
10-1-16 Prostitution
10-1-17 Searchlights
10-1-18 Signs and Banners
10-1-19 Water-Flow Upon Streets
10-1-20 Weapons
10-1-21 Public Parks
10-1-22 Open Gates
10-1-23 Prohibition of Smoking in Certain Places
10-1-24 Obstructing Government Officials

Section 10-1-1 Dangerous Constructions

A. It is unlawful for any person to maintain or allow any signs, billboards, awnings or 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.

B. It is unlawful for any person to place or keep on any window sill, porch or other projection above the first story of any building abutting on any sidewalk any article which might do injury by falling upon any person on the sidewalk in front of such building, unless said article be securely fastened or protected by screens.

Section 10-1-2 Damage to Property

A. It is unlawful for any person to damage in any manner or attempt to damage or tamper with any pipe lines, water hydrants, official signs or signals, street lamps or lights, or the fixtures and appliances "hereunto belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the Town or any water pipes, hydrants or any appliances pertaining to the water or sewer works, or any other property of any and every character belonging to the Town.

B. It is unlawful for any person to willfully or wantonly destroy or injure any line erected or constructed for the transmission of electrical current or to break the seal on any electric meter or to interfere in any manner with the registration of electric current passing through the electric meter by the use of any wire, or other device to prohibit the meter from properly registering electric current or to destroy any polies, conduits, wires, cables, insulators or support upon which wires or cables may be suspended, or any part of such line or appurtenances or apparatus connected with, or any house, shop, building or other structure or machinery connected with or necessary to the use of any line erected or constructed for the transmission of electrical current or set fire to, that shall in any manner interrupt or interfere with the transmission of electrical current over and along any such lines.

C. It is unlawful for any person to deface, walk, ride or drive upon or over any sidewalk or street crossing composed of or containing cement, during the construction thereof, or before the same is thrown open to public use.

D. It is unlawful for any person to damage in any manner any road, street or bridge in the Town limits by using the same, by heavy vehicles, malicious destruction or by any act that will result in damage to any such road, street or bridge.

E. It is unlawful to break or destroy any window, door or part of any dwelling owned or occupied by another or to break or sever from any premises owned or occupied by another any gate, fence, railing, tree, brush or vine or any property whatsoever or to deface, mutilate or injure the same.

F. It is unlawful for any person within the Town to throw stones or other missiles at railroad trains; or to let off the brakes of railroad cars standing on side tracks or tamper with the couplings of railroad cars, or to uncouple cars standing on railroad tracks, or to uncouple the air hose of the air brake system on railroad cars; or to remove, tamper with or break switch lamps or other signals set to control the movements of trains or to jump on or off moving trains, or to throw refuse upon or in any way litter the depot or station grounds of any railroad.

Section 10-1-3 <u>Deposits of Injurious Material on Thoroughfares</u>

It is unlawful for any person, either willfully and maliciously or carelessly and negligently to drop, throw, place or scatter upon any street, alley, sidewalk or public place in the Town any nails, tacks, broken glass, glass bottles or any instrument or thing whatsoever of such nature as to be capable of injuring persons or property.

Section 10-1-4 <u>Excavations to be Covered</u>

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 or in front of such excavation during the day.

B. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet (2') in depth on any unenclosed lot without providing substantial curbing, covering or protection of such excavation.

Section 10-1-5 Explosives (Ord. 993-12/07)

A. It is unlawful for any person within the limits of the Town to blast or use powder or other explosives without a BLASTING Permit from the Building Safety Department in compliance with the 2003 INTERNATIONAL FIRE CODE. The application for a Permit shall be filed at least ten (10) days prior to the use of the explosives. The Blasting Permit shall be valid for not more than thirty (30) days and shall be valid only for the site identified in the Permit. An application for a Blasting Permit shall include the following information and documents:

1. A fee in an amount set by council resolution and a valid Certificate of Insurance. *Ord. 1140

2. A Blasting Plan identifying the site, type of blasting and amount of explosives to be used or stored at the site (if any).

3. A copy of a valid Federal Explosives User's Permit or Federal Explosives License.

4. A copy of any license required by the Arizona Registrar of Contractors for the type of blasting operations proposed.

5. A Site Plan showing the security for the site during the blasting operations.

Section 10-1-6 False or Misleading Reports to Police

It is unlawful for any person willfully to make to the Police Department of the Town any false, fraudulent, misleading or unfounded report or statement, or willfully to misrepresent any fact for the purpose of interfering with the operation of the Police Department or with the intention of misleading any Police Officer.

Section 10-1-7 RESERVED FOR FUTURE USE ✡Ord. 1023/12-08

Section 10-1-8 Furnishing Weapons and Other Articles to Prisoners

It is unlawful for any person to furnish or attempt to furnish or take into jail or to deliver or attempt to deliver to any prisoner therein confined, or in the custody of any officer, any weapon, tool, intoxicating liquors, drug or other article without the consent of the officer in charge.

Section 10-1-9 Littering

It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds or church grounds.

*Ord. 1140/6-14

(Ord. 993-12/07)

✡ Ord. 1079/10-10

Section 10-1-10 Minors **Ord.1141

It is unlawful for any person seventeen (17) years of age or under to idle or loiter upon the streets or public places of the Town between the hours of 10:30 p.m. and 5:00 a.m. on Sundays through Thursdays, and between the hours of 12:00 midnight and 5:00 a.m. on Fridays and Saturdays unless such person is accompanied by a parent, guardian or some person of lawful age having legal custody of such person. It is unlawful for any parent, guardian or other adult person having the care and custody of such person to encourage or allow such person to idle or loiter upon the streets or public places between the hours of 10:30 p.m. and 5:00 a.m. Sundays through Thursdays and 12:00 midnight and 5:00 a.m. on Fridays and Saturdays unless accompanied by such parent or guardian. The provisions of this Section shall not apply when the person is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the person. Any minor who is gainfully employed with the permission of his parents may obtain a special permit to travel to and from his place of employment at hours later than set forth in this Section.

Section 10-1-11 Noise and Fumes

A. Definitions.

1. "A" *Band Level* means the total sound level of all noise as measured with a sound level meter using a-weighting network. The unit is the dB(A).
2. *Community Noise Standards* shall mean the noise standards set forth in subsection B, unless modified pursuant to subsection E or F.
3. *Decibel (dB)* means a sound pressure that is 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, two × 10-5 newton/meter2.
4. *Emergency Work* means any work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency which has or may result in a disruption of service and which is necessary to restore property to a safe condition following a public calamity or work required to protect the health, safety or welfare of persons or property or work by private or public utilities when restoring utility service.
5. *Sound Level (noise level)* in decibels (dB) is the sound measured with the a-weighting and slow response by a sound level meter.
6. *Sound Level Meter* means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks used to measure sound levels which satisfies the pertinent requirements in American National Standard specifications for sound level meters S1.4-1971 or the most recent revision thereof.

B. Allowable noise levels. It is unlawful for any person to create or permit any noise that produces a dB(A) beyond that person's property line exceeding the levels specified in Table I. Where property is used for both residential and commercial purposes, the residential sound levels shall be used only for measurements made on the portion of the property used solely for residential purposes.

**Ord.1141-07/14

TABLE I

Zone	Day of the Week	TIME	dB(A)
Residential	Sunday through Thursday	7:00 A.M. TO 10:00 P.M.	70
	Sunday through Thursday	10:00 P.M. TO 7:00 A.M.	62
	Friday and Saturday	7:00 A.M. TO 12:00 A.M.	70
	Friday and Saturday	12:00 A.M. TO 7:00 A.M.	62
Commercial	Sunday through Thursday	7:00 A.M. TO 10:00 P.M.	72
	Sunday through Thursday	10:00 P.M. TO 7:00 A.M.	65
	Friday and Saturday	7:00 A.M. TO 12:00 A.M.	72
	Friday and Saturday	12:00 A.M. TO 7:00 A.M.	65
Industrial	Sunday through Thursday	7:00 A.M. TO 10:00 P.M.	85
	Sunday through Thursday	10:00 P.M. TO 7:00 A.M.	70
	Friday and Saturday	7:00 A.M. TO 12:00 A.M.	85
	Friday and Saturday	12:00 A.M. TO 7:00 A.M.	70

C. <u>Other noises prohibited; standards for excessive noise</u>.

1. Notwithstanding any other provisions of this section, 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. It shall be unlawful for any person engaging in the following activities to produce noise beyond the property line of the property on which the activities are conducted and which disturbs the peace and quiet of a neighborhood or person:
   a. Creating or allowing a loud, disturbing noise in connection with the loading or unloading of any vehicle;
   b. Owning, possessing, harboring or permitting any domesticated animal or bird which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds;

c. Allowing or causing any shouting, yelling, screaming or any other form of raucous vocalization by a person or group of people; this provision is not intended to preclude any party from exercising their constitutional first amendment right to lawful, peaceful assembly.

d. Any noise created by construction activities including, but not limited to, repair, remodeling, demolition, drilling, wood cutting or excavation work conducted from 8:00 p.m. through sunrise; except that a person may engage in the above listed activities at that person's own residence from sunrise through 8:00 p.m.

D. **General exemptions**. The following activities are exempted from the provisions of subsections A and B above:

1. Heating, Cooling and Pool Equipment, when functioning in accord with manufacturer's specifications and is in proper operating condition, shall be exempt from the noise ordinance requirements. (Ord 1177)
2. Lawn maintenance equipment when it is functioning in accord with manufacturer's specifications and with all mufflers and noise-reducing equipment in use and in proper operating condition;
3. Non-amplified noises resulting from the activities such as those planned by school, governmental or community groups;
4. Athletic, musical or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools, and public or private colleges or universities;
5. Noises of safety signals, warning devices and emergency pressure relief valves;
6. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
7. Emergency work necessary to restore property to a safe condition following a fire, flood, accident or natural disaster; to restore public utilities; or to protect persons or property from an imminent danger;
8. All noises coming from the normal operations of railroad trains;
9. Normal noises associated with the taking off or landing of aircraft;
10. Parades, concerts, festivals, fairs or similar activities that remain within any sound limits approved by the town and permitted by a special event permit;
11. Noises of church chimes;
12. All utility equipment, including well pumps, transmission lines, power plant equipment, during normal operation provided that no plant equipment may cause the noise level measured inside any sleeping or living room inside any residential dwelling unit to exceed forty-five (45) db(a) between the hours of 10:00 p.m. And 7:00 a.m., nor fifty-five (55) db(a) between the hours of 7:00 a.m. And 10:00 p.m.;
13. An event being held pursuant to a town issued special events permit provided that the business is operating in accordance with the conditions of the special use permit.
14. Noises made by livestock located on property zoned to allow for the keeping of livestock.

E. **Temporary Exemptions.** The Town Manager is authorized to grant a temporary exemption from the allowable noise levels established by this section if such temporary exemption would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary exemption is sought. A temporary exemption must be in writing and signed by the Town Manager and must set forth the name of the party granted the exemption, the location of the property for which it is authorized and the date(s) and time(s) for which it is effective. A temporary exemption may be granted only for the period of time that is reasonably necessary to conduct the activity and, in no case shall exceed thirty (30) days. The following factors shall be considered by the Town Manager in determining whether to grant a temporary exemption:

1. The balancing of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other adverse effects of the granting of the variance;
2. The nearness of any residence or residences, or any other use which would be adversely affected by sound in excess of the limits prescribed by this article;
3. The level of the sound to be generated by the event or activity;
4. Whether the type of sound to be produced by the event or activity is usual or unusual for the location or area for which the variance is requested;
5. The density of population of the area in which the event or activity is to take place;
6. The time of day or night which the activity or event will take place;
7. The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent, impulsive or repetitive.

F. ***Variances.*** Persons wishing to continue activities which commenced prior to the effective date of this section and which create noise in excess of the allowable noise levels may seek a variance from the town manager. A request for variance must be in writing and signed by the requesting party. If approved, the variance shall be signed by the town manager and shall set forth the name of the party granted the exemption, the location of the property for which it is authorized, the date(s) and time(s) for which it is effective and the dB(A) level(s) authorized. A variance shall be granted only if the town manager finds that strict enforcement of the terms of this section would cause a hardship and no other reasonable alternative of engaging in the activity exists. The following factors shall be considered by the town manager in determining whether to grant a variance:

1. The balancing of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other adverse effects of the granting of the variance;
2. The nearness of any residence or residences, or any other use which would be adversely affected by sound in excess of the limits prescribed by this article;
3. The level of the sound to be generated by the event or activity;
4. Whether the type of sound to be produced by the event or activity is usual or unusual for the location or area for which the variance is requested;
5. The density of population of the area in which the event or activity is to take place;
6. The time of day or night which the activity or event will take place;
7. The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent, impulsive or repetitive.

G. <u>Other Prohibited Noise</u>.

1. No person may use any automobile, motorcycle or other vehicle, engine or motor of whatever size, stationary or moving, instrument, device or thing, in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.
2. No person may operate any mechanical device operated by gasoline, or otherwise, without having a muffler, in good working order and in constant operation, to prevent excessive or unusual noise and smoke; and no person shall use a muffler cutout, bypass or similar device.
3. No person may operate or use any automobile, motorcycle or other vehicle, engine or motor of whatever size, stationary or moving, on race tracks, race courses, or other similar tracks or courses at places of amusement, not being public highways, between the hours of 10:30 p.m. and 8:00 a.m. on Sundays through Thursdays, or between the hours of 12:00 midnight and 8:00 a.m. on Fridays and Saturdays.
4. No person shall operate sound amplification systems in a vehicle at an excessive level that disturbs the peace and quiet of a neighborhood or other persons.
5. Except as authorized by law, no person shall operate or permit the operation of any sound amplification system in or on a vehicle in such a manner that the sound is plainly audible at a distance of fifty (50) feet, or in such a manner that it causes a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet.
6. It shall be unlawful for an operator of a diesel-powered motor vehicle having a load capacity of two (2) tons or more to allow said vehicle to idle for a period of time in excess of two (2) hours while located within the town limits. This provision shall not apply to vehicles being repaired nor to vehicles immediately engaged in loading or unloading cargo.

H. <u>Enforcement</u>. The Police Department, the Building Inspector, Animal Control Officer for animal noises and Town Prosecutor are authorized to enforce the provisions of this section.

Section 10-1-12 <u>Obstruction of Streets</u> * Ord. 1168

A. It is unlawful for any person to obstruct any public street, alley, sidewalk or park or other public grounds within the Town by committing any act of, or doing anything which is injurious to the health or indecent or offensive to the senses, or to do in or upon any such streets, alleys, sidewalks, parks or other public grounds, any act or thing which is an obstruction or interference to the free use of property or with any business lawfully conducted by anyone, in or upon, or facing or fronting on any of such streets, alleys, sidewalks, parks or other public grounds in the Town.

B. It is unlawful for any person or entity to utilize town property or equipment in any manner other than which it was intended by the manufacturer or owner, or in such a manner as it is injurious to health or indecent or offensive to the senses.

C. It is unlawful for any person or entity to place or cause to be placed on any public street, alley, sidewalk, or public right-of-way, for any length of time, any objects or material, including but not limited to gravel, plants, soil, lumber, bricks, rocks, and pipes, or to cause damage to the pavement, curb, gutter or sidewalk of any right-of-way. This provision shall not apply to utility or Town Personnel performing lawful Town or utility work in the public street, alley, sidewalk or public right-of-way.

Section 10-1-13 <u>Interference With Use, Obstruction of View</u>

A. It is unlawful for any person to maintains allow any tree, hedge, billboard or other obstructions which interfere with the use of public sidewalks or 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.

B. The Town Council is hereby provided full and complete control over all trees which are outside the property lines of privately owned real property; provided, the Council shall also have the right to trim any trees or shrubbery on either public or private property that interferes, or appears to threaten to interfere with any electric power or other utility pole, line or appliance.

*Ord. 908/11-05
*11/01 – Ord. 880

*Ord. 1168/10-16

Section 10-1-14 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 occupation or activity offensive to the senses or prejudicial to the public health within the limits of the Town.

Section 10-1-15 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 10-1-16 Prostitution

It is unlawful for any person to practice prostitution or to solicit any person to visit or patronize a prostitute or place of prostitution.

Section 10-1-17 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 (1/2) 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 10-1-18 Signs and Banners

It is unlawful for any person to place any banner or sign upon any street light pole, traffic signal pole or utility pole within the Town without first obtaining authorization from the Council.

Section 10-1-19 Water-Flow Upon Streets

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 irritation 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 10-1-20 Weapons △

A. It is unlawful for any person within the limits of the Town to fire or discharge any BB gun, air gun, pellet gun, dart gun, slingshot, and gas-operated gun or other similar gun or instrument.

☆11/01 – Ord. 880
△ - Ord. 1059/5-10

B. The prohibitions of the preceding Subsection A. shall not apply to the use of any such gun or instrument by:

1. Any person while located on that person's property or the property of another with the express permission of the property owner and so long as such use does not project BBS, pellets, darts, rocks or other projectiles beyond the property limits.

Section 10-1-21 Public Parks ⇦Ord. 986 – 7/07

A. Except as provided in Subsection B of this Section, it is unlawful for any person to linger, loiter, sleep or otherwise be within the Town parks, playgrounds or recreational areas, including restrooms and other structures therein, during the hours from 10:00 p.m. to 5:00 a.m., unless prior thereto written approval has been obtained from the Community Services Department for an organized activity.

B. Overnight parking of trailers and recreational vehicles is permitted only as follows:
1. Constellation Park: Overnight parking of trailers and recreational vehicles is permitted providing that such trailer or recreational vehicle is a self-contained unit. No dumping of sanitary wastes or litter shall be permitted. It is unlawful for any trailer or recreational vehicle to park within Constellation Park for more than seven (7) consecutive days within any thirty (30) day period.
2. Community Center Campground: NO overnight parking.

C. No glass beverage containers are permitted in public parks of the Town.

D. No dogs, with the exception of certified guide dogs for the blind and certified service animals, are permitted on any municipal owned ballfields.

E. Enforcement:

1. Employees of the Community Services Department may be designated as Park Rangers to enforce the Town Code within Town Parks, including but not limited to parking lots, sidewalks, and ramadas. The Police Department shall train the Park Rangers with regard to the issuance of citations for violations of Town Code provisions within Town Parks.

2. The Park Rangers of the Town shall enforce the provisions of the Town Code and shall have the authority to issue citations for violations of the Town Code within Town Parks.

Section 10-1-22 Open Gates

It is unlawful for any person to leave or cause to leave any gate within the Town open that results in the roaming of livestock at large within the Town.

Ord. 961/6-10
⇦Ord. 986 – 7/07
△ - Ord. 1059/5-10

Section 10-1-23 <u>Prohibition of Smoking in Certain Places</u> Ord 1003-5/08

A. Definitions: in this section unless the context otherwise requires:

1. "Employee" means any person who is employed by an employer for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
2. "Employer" means a person, business, partnership, association, the State of Arizona and its political subdivisions, corporations, including a municipal corporation, trust, or non-profit entity that employs the service of one or more individual persons.
3. "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means.
4. "Owner" means the legal owner of the building, the director of the organization owning the building, the manager or chief executive officer of a corporate owner of the building or the person in charge at any given time of the operation of the building or any business conducted therein.
5. "Physically separated" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageway) and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas.
6. "Place of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
7. "Public place" means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas or apartment buildings, condominiums or other multi-family housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theatres, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult care, or health care facility.
8. "Retail tobacco store" means a retail store that derives the majority of its sales from tobacco products and accessories.
9. "Smoking" means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product.
10. "Sports facilities" means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.
11. "Veteran and fraternal clubs" means a club as defined in A.R.S. §4-101(7)(a)(b) or (c).

C. Smoking is prohibited in all public places and places of employment within the town except:

1. Private residences, except when used as a licensed child care, adult day care, or health care facility.
2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than fifty percent (50%) of rooms rented to guests in a hotel or motel are so designated.

3. Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section.
4. Veterans and fraternal clubs when they are not open to the general public.
5. Smoking when associated with a religious ceremony practiced pursuant to the American Indian religious freedom act of 1978.
6. An outdoor patio so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.
7. A theatrical performance upon a stage or in the course of a film or television production if the smoking is part of the performance or production.

C. Regulation of smoking in places of employment.

1. The prohibition on smoking in places of employment shall be communicated to all existing employees by the effective date of this section and to all prospective employees upon their application for employment.
2. No employer may discharge or retaliate against an employee because that employee exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.

D. Posting of signs and ashtray removal.

1. "no smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered.
2. Every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
3. All ashtrays shall be removed from any area where smoking is prohibited by this section by the owner, manager or other person having control of the area.

E. In addition to any other duty contained herein, any owner, manager, employer or employee upon either observing or being advised of a violation of this chapter, shall advise the violator that smoking is prohibited under town ordinance and advise the smoker to extinguish the smoking material and shall call the police if the smoker refuse to comply.

F. Any person found guilty of violating any of the provisions of this chapter shall be found guilty of a petty offense and upon conviction thereof shall be fined not less than one hundred dollars ($100.00), or more than five hundred dollars ($500.00). Each occurrence or day that a violation continues shall be a separate offense, punishable as described above. In no case shall a person convicted of a violation of this section be eligible for suspension of their fine.

Section 10-1-24 Obstructing Government Officials *Ord. 1167

A. It is unlawful for any person to knowingly obstruct, delay, resist or oppose any police officer, any member of the fire department, or any other town official in the performance or attempted performance of his or her duties. It is an affirmative defense to any charge pursuant to this section that the person only uttered words alone, regardless of how offensive or obscene the words may be.

B. It is unlawful for any person to knowlingly fail or refuse to obey or otherwise comply with any lawful order issued by a police officer, including fleeing or refusing a request to provide a full, true name when such officer has reasonable suspicion that criminal activity is occurring, has occurred, or is about to occur.

C. It is unlawful for any person to torture, torment, beat, kick, mutilate, injure, disable or kill any animal used by a town official in the performance of its functions and duties, or to interfere or meddle with any animal while being used by a town official in the performance of any of the functions or duties of the town. Anyone who violates this section is guilty of a class 1 misdemeanor.

Ord 1003-5/08
* Ord 1167-10/16

ARTICLE 10-2 REMOVAL OF LITTER

10-2-1 Definitions
10-2-2 Litter on Private Property
10-2-3 Owner to Maintain Premises
10-2-4 Notice to Remove
10-2-5 Service of Notice
10-2-6 Appeal to Council
10-2-7 Removal by Town
10 2 8 Lien for Removal

Section 10-2-1 Definitions

In this Chapter unless the context requires otherwise:

A. "Litter" means any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety and shall include all putrescible and nonputrescible solid wastes including garbage, trash, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial waste; any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever; and any growth of weeds, brush, grass or other vegetable growth to a height of over six inches (6").

B. "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 shall include any yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.

D. "Public place" means any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

Section 10-2-2 Litter on Private Property

No person shall throw or deposit litter on any occupied or unoccupied 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 public place.

Section 10-2-3 Owner to Maintain Premises

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section 10-2-4 Notice to Remove

If a person owning or controlling any property fails, neglects or refuses to remove or properly dispose of litter located on property owned or controlled by such person he shall be given written notice by the Manager or other authorized Town official to remove all litter from such property within thirty (30) days from the date set on said notice for compliance which notice shall be given not less than thirty (30) days before the date set for compliance. Such notice shall contain an estimate of the cost of removal by the Town, a statement that unless the person owning or controlling such property complies therewith within thirty (30) days from the date of compliance on such written notice that the Town will, at the expense of the person owning or controlling said property, perform the necessary work at a cost not to exceed the estimate given in the notice, and that such person may appeal in writing to the Council within thirty (30) days from the date of compliance on the notice.

Section 10-2-5 Service of Notice

Notice shall be personally served on the owner or person controlling such property, by any duly authorized official of the Town in the manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such property at his last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property' a duplicate notice shall also be sent to him by certified or registered mail at his last known address.

Section 10-2-6 Appeal to Council

Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the Council from the demand of the Manager or other authorized Town official. The Council shall, at its next regular meeting after receiving the appeal, hear and determine the same and the decision of the Council shall be final. The Council may either affirm or reverse the decision of the Manager or other authorized Town official or modify the scope of the work as required in the notice. The Town shall take no action until the Council has heard and determined all matters contained in the notice of appeal.

Section 10-2-7 Removal by Town

When any such person to whom notice, as aforesaid, has been given, for more than thirty (30) days from the date of compliance on the notice, or within such further time as may have been granted by the Council on appeal, fails, neglects or refuses to remove from such property any or all litter, the Manager or other authorized Town official is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such property.

Upon completion of the work, the Manager or other authorized Town official shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed and the street address and the legal description of the property on which said work was done, including five percent (5%) for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such property in the manner prescribed in Section 10-2-5. The owner or person controlling such property shall have thirty (30) days from the date of service upon him to appeal in writing to the Council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the Town Clerk within such thirty (30) day period, then the amount of the assessment as determined by the Manager or other authorized Town official shall become final and binding. If an appeal is taken, the Council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the Council shall be final and binding on all persons.

Section 10-2-8 Lien for Removal

If no appeal is taken from the amount of the assessment, or if an appeal is taken and the Council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the Office of the County Recorder and from the date of its recording, shall be a lien on said private premises and the amount assessed against such private premises until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this Section shall be made upon judgment of foreclosure or order of sale. The Town shall have the right to bring an action to enforce the lien in the Superior Court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this Section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same private premises may be enforced in the same action.

ARTICLE 10-3 INOPERABLE VEHICLES

10-3-1 Definitions
10-3-2 Abandoning and Storage Prohibited

Section 10-3-1 Definitions

For purposes of this Article, "inoperable vehicle" means any motor vehicle, which meets one of the following requirements:

A. It does not display a valid license plate and is either wrecked, partially wrecked, dismantled, partially dismantled, is in a discarded condition or is incapable of being driven; or
B. It is wrecked, partially wrecked, dismantled, partially dismantled, discarded or is incapable of being driven and has remained in such condition for a continuous period of sixty (60) days.

Section 10-3-2 Abandoning and Storing Prohibited ❊ Ord. 908/11-05

A. It is unlawful for any person to abandon, store or permit the storage of an inoperable vehicle within the Town except in rear yards or in lawfully established businesses for that purpose. Any such storage shall be screened from view from adjacent properties and public streets. Screening in this Section shall consist of six (6) foot high masonry walls, wooden fences, or landscaping that is sufficient height and density to provide a visual barrier.
B. In any prosecution charging a violation of this Article, proof that the defendant named in the complaint was at the time the registered owner or person in possession of an inoperable vehicle, shall constitute and evidence a prima facie presumption that the registered owner of such vehicle is a person who abandoned, stored or permitted the storage of such vehicle at the point where and for the time during which said violation occurred.
C. This Article shall not apply to vehicles stored inside a garage, in a licensed towing service facility, in a licensed motor vehicle salvage facility, in a licensed scrap processing yard, in a licensed auto repair garage yard, in a licensed paint or spray shop yard, in a licensed gasoline station yard, in a licensed vehicle dealership yard or in any other lawful storage area not within the public view.

ARTICLE 10-4 ENVIRONMENTAL NUISANCES

10-4-1 Definitions
10-4-2 Environmental Nuisances On Private Property
10-4-3 Owner To Maintain Premises
10-4-4 Notice To Remove
10-4-5 Service of Notice
10-4-6 Appeal to Council
10-4-7 Removal by Council
10-4-8 Line for Removal

Section 10-4-1 Definitions

In this Chapter, unless the context requires otherwise:

A. "Well Head Protection Area" means the surface and subsurface area surrounding a water well or well field supplying Wickenburg's Public Water System through which contaminants are reasonably determined likely to move toward and reach such well or well field.
B. "Environmental Nuisances" mean:
   1. All sewage, human 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; or
   2. The existence of conditions which cause the pollution or contamination of any domestic waters.

Section 10-4-2 Environmental Nuisances on Private Property

No person shall create or permit an environmental nuisance on any occupied or unoccupied private property within the Town, whether owned by such person or not. 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 environmental nuisance.

Section 10-4-3 Owner To Maintain Premises

The owner or person in control of any private property shall at all times maintain the premises free of environmental nuisances.

❊ Ord. 908/11-05

Section 10-4-4 Notice To Remove

If a person owning or controlling any property fails, neglects or refuses to remove or eliminate an environmental nuisance located on property owned or controlled by such person, he shall be given written notice by the Town Manager or other authorized Town Official to remove the environmental nuisance from such property within thirty days from the date set on said notice for compliance, which notice shall be given not less than thirty days before the date set thereon for compliance, except where such environmental nuisance poses an immediate threat to the public health, safety and welfare or to the domestic water supply. Such notice shall contain an estimate of the cost of removal by the Town, a statement that unless the person owning or controlling such property compiles therewith within thirty (30) days from the date compliance on such written notice that the Town will, at the expense of the person owning or controlling said property, perform the necessary work at a cost not to exceed the estimate given in the notice and that such person may appeal in writing to the Council within thirty (30) days from the date of compliance on the notice. If the environmental nuisance poses and immediate threat to the public health, safety and welfare or domestic water supply, notice shall be provided that the environmental nuisance shall be removed or eliminated immediately.

Section 10-4-5 Service Of Notice

Notice shall be personally served on the owner or person controlling such property by a duly authorized official of the Town in the manner provided in Rule 4(D) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such property at his/her last known address by certified or registered mail, or to the address to which the tax bill for property was last mailed. If the owner does not reside on such property, a duplicate notice shall also be sent to him/her by certified or registered mail at last known address. In the event that the post office address of the owner or user is unknown or if the owner or user cannot be reached by mail, the Town Clerk may cause to be published 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 owner or user.

Section 10-4-6 Appeal To Council

Prior to the date set for compliance of the notice, the owner or person controlling such property may appeal in writing to the Town Council from the demand of the Town Manager or other authorized Town official. The Town Council shall, at its next regular meeting after receiving the appeal, hear and determine the same and the decision of the Council shall be final. The Town Council may either affirm or reverse the decision of the Town Manager or other authorized Town official or modify the scope of the work as required in the notice. The Town shall take no action until the Town Council has determined all matters contained in the Notice Of Appeal.

Section 10-4-7 Removal By Town

When any such person to whom notice, as aforesaid, has been given, for more than thirty (30) days, or less where such environmental nuisance poses an immediate threat to the public health, safety and welfare, or to the domestic water supply, from the date of compliance on the notice, or within such further time as may have been granted by the Town Council on appeal, fails, neglects or refuses to remove from such property any or environmental nuisance, the Town Manager or other authorized Town official is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such property.

Upon completion of the work, the Town Manager or other authorized Town official shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the property on which said work was done, including five percent (5%) for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the owner or person controlling such property in the manner prescribed in Section 10-4-4.

The owner or person controlling such property shall have thirty (30) days from the date of service upon him/her to appeal in writing to the Town Council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the Town Clerk within such thirty (30) day period, then the amount of the assessment as determined by the Town Manager or other authorized Town official shall become final and binding. If an appeal is taken, the Town Council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the Town Council shall be final and binding on all persons.

Section 10-4-8 Lien For Removal

If no appeal is taken from the amount of the assessment, or if an appeal is taken and the Town Council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the Office of the County Recorder and from the date of its recording, shall be a lien on said private premises and the amount assessed against such private premises 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 Section shall be made upon judgment of foreclosure or order of sale. The Town shall have the right to bring an action to enforce the lien in the Superior Court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this Section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same private premises may be enforced in the same action.

ARTICLE 10-5 PROPERTY MAINTENANCE

10-5-1 Definitions
10-5-2 Nuisance Lights
10-5-3 Enforcement (Ord. 982 – 6/07)

Section 10-5-1 DEFINITIONS:

a. ABANDONED REFRIGERATORS AND FREEZERS: Any abandoned, unattended or discarded refrigerator, icebox, or other container, which has an airtight door, lid, or other locking device, which may not be released from the inside.

b. ABANDONED VEHICLE: Any vehicle, which is without current license plates or tabs, or is inoperable, stripped, unclaimed, junked, or discarded. This shall also mean vehicles, other than those categories enumerated above, being repaired, when such repairs take ninety (90) days or more. For purposes of this chapter, the term-abandoned vehicle may also refer to trailers, and/or dismantled and/or partially dismantled motor vehicles that by reason of dismantling, disrepair, or other causes, are incapable of being propelled under their own power, in addition to the definition herein, except for those categories of motor vehicles specifically exempted herein.

c. ACCUMULATION OF FILTH: Littered, trash covered areas, including debris, weeds, garbage, rubbish, rubble or ref- use on premises.

d. BLIGHTED EXTERIORS: Exterior surfaces deteriorated, so as to be a threat to health, safety, or otherwise deteriorated appearance.

e. BLIGHTED OR BLIGHTING: Unsightly conditions including the accumulation of filth or debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling, or rusting; landscaping that is dead or damaged through the natural elements; and any other similar conditions of disrepair and deterioration.

f. BUILDING: A structure, having a roof for support, housing, shelter and/or enclosure of any person, animal or tangible goods; and when any portion thereof is separated from every other portion thereof by a masonry wall, without openings, extending from the ground through the upper surface of the roof, then such portion may be deemed a separate building.

g. DEBRIS: Substance which may be present in a state of apparent unpremeditated disarray, including, but not limited to, leftover, superfluous, or unwanted materials including abandoned vehicles or parts.

h. DETERIORATION: A lowering in quality in the condition or appearance of a building or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay or neglect or excessive use or lack of maintenance.

i. GARBAGE: Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

j. HAZARDOUS WASTE: 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 CFR sections 261.1 through 261.33 except that, for purposes of this chapter, hazardous waste shall include household waste as defined in 40 CFR 261.4 B1.

k. HEALTH HAZARD: The presence of any item(s), which adversely impact or jeopardize the well-being or health of an individual. Such items may provide evidence of occupancy without adequate facilities or may be inclusive of human/animal waste, medical or biological waste, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals/liquids, flammable and/or explosive materials, friable asbestos, offal, and decay/matter. Such items constitute an imminent hazard.

l. IMMINENT HAZARD: Condition of real property that places a person's life, health, or property in high risk of peril when such condition is immediate, impending, on the point of happening, and menacing.

m. INFESTATION: The apparent presence of unpleasant, damaging, or unhealthful insects, rodents, or reptiles.

n. LITTER: Any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety and shall include all putrescible and non-putrescible solid wastes including garbage, trash, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial waste; any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever; and any growth of weeds, brush, grass, or other vegetative growth to a height of over twelve inches (12"). "Refuse" or "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

o. OCCUPANT: A legal entity that, through rights of ownership or rental, has the use and enjoyment of the subject real property for residential or commercial purposes.

p. OWNER: A legal entity listed as current or rightful owner as recorded in the official records of the Arizona Department of Motor Vehicle, Maricopa County and/or Yavapai County Recorder's Office.

q. PREMISES: Includes land, building exteriors, or the exterior of other structures or parts thereof. Premises shall include adjacent sidewalks, street parkway, driveway culverts, and to back of curb.

r. PRIVATE PREMISES: Any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.

s. PROPERTY MANAGER: A legal entity with the authority and ability to make emergency repairs and with the responsibility to oversee the maintenance and protection of the property, and to represent the owner's interests.

t. PUBLIC PLACE: Any and all streets, sidewalks, boulevards, alleys, or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

u. REFUSE: All putrescible and non-putrescible solid waste, including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

v. RESPONSIBLE PERSON: An owner, occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land.

w. RUBBISH: Non-putrescible solid waste consisting of both combustible and noncombustible waste such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, weeds, brush, wood, glass, bedding, crockery, or other accumulation of filth or debris.

x. RUBBLE: Broken fragments resulting from the decay or deterioration of a building; miscellaneous mass of broken or apparently worthless materials.

y. SCREENED AREA – EXTERIOR: An area separated by a permanent nonflexible device to completely conceal one element of a property from other elements or from adjacent or contiguous property. Examples include, but are not limited to, fencing six feet (6') in height that is made of solid wood, brick or, where allowed, by ordinance chain link with opaque slats.

z. SOUND CONDITION: Able to support itself under reasonable loading or weather conditions, free from decay or defect.

aa. STRUCTURAL NUISANCE: A vacant or unsecured structure or portion thereof of any description which is presently open or has been open or unsecured on one or more than one occasion; or which is left open and unsecured after expiration of a notice of violation to comply by the Town; or wells, shafts, basements, cesspools, septic tanks, unsound fences, swimming pools, ponds, and other like or similar conditions where it appears that such are unattended or abandoned.

bb. STRUCTURE: 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.

cc. SWIMMING POOL: Artificial basin, chamber, or tank constructed and used, or designed to be used, for swimming, diving, or bathing.

dd. UNSECURED STRUCTURE: 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.

ee. VEGETATION: Plant life of any kind.

ff. WEEDS: A useless and troublesome plant generally accepted as having no value and frequently of uncontrolled growth.

2. Areas of Standards: A. EXTERIOR PREMISES

1. All Land: Whether improved or unimproved, shall be maintained free from any structural nuisance, accumulation of filth, garbage or exterior blighting, which includes, but is not limited to, graffiti on walls, fences, mailboxes, etc., accumulation of litter, rubbish, refuse, waste material, bottles, papers, glass, cans, organic or inorganic materials, abandoned vehicles, discarded appliances, discarded furniture, broken glass, piles of mixed material, dry vegetations, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing straw, packing hay or other packing material, lumber not neatly piled, lumber stored in front yards, hazardous wastes, scrap iron, tin and other metal not neatly piled or anything whatsoever in which insects may breed or multiply or which provides harborage for rodents, snakes, or other harmful pests or which may otherwise create a fire hazard, or health hazard.
2. Weeds, Bushes, Trees and Other Vegetation: All exterior property areas including vacant lots shall be kept free from dry vegetation, including but not limited to tumbleweeds, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations, or which may likely become a fire hazard or otherwise threaten the health and safety or the economic welfare of adjacent property owners or occupants. It is the responsibility of the owner or occupant to cut or remove grass and weeds in excess of twelve inches (12") high. This subsection is not intended to apply to native vegetation on lots that exceed 12,000 square feet in size or native vegetation on lots that are less than 12,000 square feet in size when the vegetation has been or planted or retained as part of a maintained landscape scheme of plan.
3. Nuisance Trees: All exterior premises shall be kept free of trees which constitute a nuisance, or which may present a danger to persons, property and other vegetation. For the purposes of this subsection, a tree shall be deemed a nuisance and be deemed detrimental to the public health and safety if:
    a. It appears dead, dangerous or likely to fall; or
    b. It is not pruned to a height of at least eight feet (8') above the sidewalk; or
    c. It obstructs a curb, gutter, street or sidewalk; or
    d. It interferes with a planned public improvement; or
    e. It appears to be infected with infectious diseases, parasites or insects
    f. It interferes with any underground or aboveground utilities; or
    g. It is in dangerous proximity with a public utility.

    Note: 3.f and 3.g constitute a Special Nuisance that will be appropriately trimmed or removed by either the Town or Arizona Public Service.

4. Exterior Of Buildings

a) *Exterior Surfaces*: All exposed exterior surfaces and openings shall be maintained so as to be free of deterioration or otherwise present a blighted condition. Evidence that deterioration or blighted conditions exist requires a finding by the Building and Zoning Inspector that 30% of the surface of the structure is so affected.
b) *Foundations,* Walls & Roofs: Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in structurally sound and weather tight condition. The foundation elements shall adequately support the building at all points in accordance with applicable city codes, and also shall be free from deterioration.
c) *Outdoor Stairs, Porches, Railings*: All outdoor stairs, porches and hand railings shall be adequate for safety and shall be maintained so as to be safe and in structurally sound condition. The support for railings, stairs, and porches shall be structurally sound and adequate and shall be maintained in safe condition and capable of supporting a load that normal use may place thereon.
    1. Discarded Furniture and Abandoned Appliances: In order to promote the general welfare and to minimize visual blight it shall be unlawful to strew or store discarded furniture or appliances in any yard that is visible from another property or a public right of way. Such items may be stored in the rear yard when screened by a six-foot masonry wall, wood fence or vegetative screen that is of sufficient height and opacity to effectively screen the items being stored. Vegetative screens shall be maintained. *Abandoned refrigerators or freezers even if legally stored, shall be locked closed or have the door removed.*

Section 10-5-2 Nuisance Lights

1. Purpose, Intent, and Applicability

a. Minimize light pollution and light trespass with the intent of maintaining the integrity of and enjoyable use of property and the night environment by the citizens of the Town of Wickenburg, and

b. Benefiting astronomical research and observations

c. Conserving energy while increasing nighttime visibility, utility, and security.

d. This section shall apply to all new construction in all single family residential zoning districts and shall include, any new outdoor lights installed or constructed after the effective date of this ordinance, or existing lights determined to constitute a nuisance pursuant to the process outlined in Section IV ENFORCEMENT.

2. Standards For Outdoor Residential Lighting

a. Outdoor lighting shall refer to all sources of light either temporary or permanent that intentionally or incidentally illuminate any area beyond the exterior walls of enclosed structures.

b. All outdoor light fixtures shall be situated or shielded to prevent the light source from being directly visible from a public street, adjacent residence, or adjacent residential zoning district. Shielded shall mean that fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

c. All lighting fixtures shall be so constructed and arranged to reflect light away from any residence or residential zoning district while minimizing to the extent possible, any illumination beyond the boundaries of the site on which the lighting is located.

d. All light fixtures shall have a full cutoff to mitigate light pollution. Full cutoff shall mean that the light fixture is shielded or constructed so that the light rays emitted by the fixture are projected below a horizontal plane passing through the lowest point on the fixture from which light is emitted. Drop or sag lens type fixtures are prohibited.

e. The use of mercury vapor lights is prohibited and shall be deemed illegal. Existing mercury vapor lights are considered a nuisance and shall be removed or replaced as of January 1, 2004.

f. Exemptions:

(1) This section shall not apply to portable or temporary lighting used by law enforcement, emergency services personnel or public utilities to protect life or property, or permanent lighting that is deemed necessary in the interest of public safety by the Chief of Police, the Fire Chief, or the Fire Marshal.

(2) Field sports lighting in public or semi-public facilities such as municipal parks, public school athletic fields, and rodeo or equestrian arenas.

(3) Temporary special event lighting such as Christmas lights, lighting in conjunction with approved carnivals or circuses.

(4) Airport

Section 10-5-3 Enforcement

A. General Violations:

1. The Building Inspectors of the Town shall enforce the provisions of this Article and shall have the authority to issue citations for violations of this Article. Violations shall be subject to the penalties set forth in Article 1-8 of this Code.
2. In addition to or in lieu of issuing a citation for a violation of this Article, the Building Inspector may file a notice to abate the violation and may enforce this Article as set forth in Subsection B.
3. The Building Inspector is hereby authorized to make inspections for violations of this Article in the normal course of job duties or in response to a citizen complaint that an alleged violation of the provisions of this Article may exist or when there is a reason to believe that a violation of this Article has been or is being committed.
4. In order to determine compliance with this Article, private property may be entered with the consent of the owner or occupant or as authorized by a court of competent jurisdiction.

B. Nuisance Violations

1. **Owner to Maintain Premises**: The owner or person in control of any private property shall at all times maintain the premises in accordance with Town Codes and Ordinances.

2. **Notice to Remove**: If a person owning or controlling any property fails, neglects, or refuses to remove or properly dispose of, debris, garbage, hazardous waste, litter, refuse, rubbish, rubble located on property owned or controlled by such person he shall be given written notice by the Manager or other authorized Town official to remove all litter from such property within thirty (30) days from the date set on said notice for compliance which notice shall be given not less than thirty (30) days before the date set for compliance. Such notice shall contain an estimate of the cost of removal by the Town, a statement that unless the person owning or controlling such property complies therewith within thirty (30) days from the date of compliance on such written notice that the Town will, at the expense of the person owning or controlling said property, perform the necessary work at a cost not to exceed the estimate given in the notice, and that such person may appeal in writing to the Council within thirty (30) days from the date of compliance on the notice.

3. **Service of Notice:** Notice shall be personally served on the owner or person controlling such property, by any duly authorized official of the Town in the manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such property at his last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property, a duplicate notice shall also be sent to him by certified or registered mail at his last known address.

4. **Appeal to Council:** Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the Council from the demand of the Town Manager or other authorized Town official. The Council shall, at its next regular meeting after receiving the appeal, hear and determine the same and the decision of the Council shall be final. The Council may either affirm or reverse the decision of the Manager or other authorized Town official or modify the scope of the work as required in the notice. The Town shall take no action until the Council has heard and determined all matters contained in the notice of appeal.

5. **Removal by Town:** When any such person to whom notice, as aforesaid, has been given, for more than thirty (30) days from the date of compliance on the notice, or within such further time as may have been granted by the Council on appeal, fails, neglects, or refuses to remove from such property any or all debris, garbage, hazardous waste, litter, refuse, rubbish, rubble, the Town Manager or other authorized Town official is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such property. Upon the completion of the work, the Town Manger, or other authorized Town official shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the property on which said work was done, including five percent (5%) for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such property in the manner prescribed in Section 10-2-5. The owner or person controlling such property shall have thirty (30) days from the date of service upon him to appeal in writing to the Council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the Town Clerk within such thirty (30) day period, then the amount of the assessment as determined by the Manager or other authorized Town official shall become final and binding. If an appeal is taken, the Council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the Council shall be final and binding on all persons.

6. **Lien for Removal**: If no appeal is taken from the amount of the assessment, or if an appeal is taken and the Council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the Office of the County Recorder and from the date of its recording, shall be a lien on said private premises and the amount assessed against such private premises until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this Section shall be made upon judgment of foreclosure or order of sale. The Town shall have the right to bring an action to enforce the lien in the Superior Court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this Section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same private premises may be enforced in the same action.

ARTICLE 10-6 FIREWORKS ☆Ord. 1079/10-10

10-6-1 Definitions
10-6-2 Fireworks Prohibited; Exceptions
10-6-3 Sale Of Fireworks
10-6-4 Posting Of Signs By Persons Engaged In The Sale Of Fireworks
10-6-5 Authority To Enforce Violations Of This Article; Means Of Enforcement
10-6-6 Liability For Emergency Responses Related To Use Of Fireworks; Definitions
10-6-7 Penalty

Section 10-6-1 Definitions

A. The following words, terms and phrases, when used in this article 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 §36-1601.

2. Display firework means those fireworks defined by Arizona Revised Statutes §36-1601.

3. Fireworks means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, display firework or permissible consumer firework as defined by Arizona Revised Statutes §36-1601.

4. Novelty items means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statutes §36-1601.

5. Permissible consumer fireworks means those fireworks as defined by Arizona Revised Statutes §36-1601 that may be sold within the Town of Wickenburg 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 Wickenburg Fire Chief or his designee.

Section 10-6-2 Fireworks Prohibited; Exceptions

a. The use, discharge or ignition of fireworks within the Town of Wickenburg is prohibited; except as provided for in this Section. The use, discharge or ignition of fireworks within the Town of Wickenburg is limited to the annual Town sponsored Fourth of July celebration conducted by a reputable fireworks company with the express authorization by Mayor & Council upon the recommendation of the Wickenburg Fire Chief. If a use is approved by the Wickenburg Fire Chief or designee, a Permit must be issued and signed and kept in the possession of the holder.

☆Ord. 1079/10-10

b. Nothing in this Section or Article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.

c. Permits may be granted by the Wickenburg Fire Chief or designee for conducting a properly supervised public display of fireworks. Each such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection by the Wickenburg Fire Chief or designee and in a manner that does not endanger persons, animals, or property. The permittee shall provide proof of insurance in an amount and form required by the Town. A Permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The Wickenburg Fire Chief has authority to impose conditions on any permits granted.

Section 10-6-3 <u>Sales of Fireworks</u>

a. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person under sixteen (16) years of age.

b. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with Arizona State Law.

Section 10-6-4 <u>Posting of Signs by Persons Engaged in the Sale of Fireworks</u>

a. Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:

1. The use of fireworks, except novelty items as defined by the Wickenburg Town Code in Section 10-6-3-c of this Section, and including permissible consumer fireworks is prohibited.

2. Permissible consumer fireworks authorized for sale under Arizona State Law may not be sold to persons under the age of sixteen (16) years old.

b. Signs required under this Section shall be placed at each cash register and in each area where fireworks are displayed for sale.

c. The Wickenburg Fire Chief or designee shall develop regulations concerning the size and color of the required signs and shall develop a model sign. The required sign regulations and model sign shall be posted on the Town of Wickenburg's website and filed with the Town Clerk's office.

Section 10-6-5 <u>Authority to Enforce Violations of this Article; Means of Enforcement</u>

a. A Wickenburg Fire Chief, Fire Marshall, Police Officer and/or Town Attorney may issue criminal complaints to enforce this Article.

☆ Ord. 1079/10-10

Section 10-6-6 Liability for Emergency Responses Related to Use of Fireworks; Definitions

a. 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 for a violation(s) of this Article is prima facie evidence of liability under this Section.

b. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to Subpart "a" of this Section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, non-profit entities, or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall not exceed ten thousand dollars ($10,000.00) 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.

c. For the purposes of this Section:

1. "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.

2. "Reasonable Costs" include the costs of providing Police, Firefighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

Section 10-6-7 Penalty

The penalty for violating any prohibition or requirement imposed by this Article is a Class 1 Misdemeanor and subject to the penalties set forth in Section 1-8 of this Code.

☆ Ord. 1079/10-10

ARTICLE 10-7 ALARM SYSTEMS Ord. 1086/4-11

10-7-1 Registration Of Alarm Systems
10-7-2 False Alarms and Permit Revocation
10-7-3 Appeal Procedures
10-7-4 Penalties

Section 10-7-1 Registration Of Alarm Systems

A. It shall be unlawful to operate, or cause to be operated, an alarm system at an alarm site without a valid Alarm Permit being registered. A separate Alarm Permit Registration is required for each alarm system. Alarm Permits must be obtained prior to the installation and/or activation of an alarm system. An alarm user with an alarm system in operation at the time of the effective date of this Article must register the alarm within thirty (30) days of notification by the Alarm Administrator, as designated by the Town Manager.

B. The application for an Alarm Permit Registration shall be made on a form approved by the Alarm Administrator and be accompanied by the required fee(s) if applicable. The application must be completed in full and shall include at a minimum:

1. Address of the alarm site;
2. The name, address (including apartment/suite number), and telephone numbers for the Alarm Permit holder;
3. The classification of the alarm site as either residential (includes apartment, condo, mobile home, etc.) or commercial;
4. The classification of each alarm system located at the alarm site (i.e. burglary, holdup, duress, panic alarms or other) and whether the alarm is audible or silent;
5. Mailing address, if different from the address of the alarm site;
6. Any dangerous or special conditions present at the alarm site;
7. Names and telephone numbers of at least two (2) individuals who have agreed to act as primary or secondary responder to:
   (a) Receive notification of alarm system activation at any time;
   (b) Respond to the alarm site as required by Wickenburg Personnel no later than fifteen (15) minutes during normal business hours (8:00 a.m. to 5:00 p.m., Monday-Friday) and twenty-five (25) minutes during all other times; and
   (c) Grant access to the alarm site and deactivate the alarm system if necessary.
8. The type of business conducted at a commercial alarm site;
9. Date of alarm system installation or activation, whichever is applicable;
10. The name, address, and telephone number of the alarm business; and
11. The name, address, and telephone number of the monitoring company, if different from the alarm business.

Ord. 1086/4-11

C. An alarm user's Permit shall be available within the alarm site for inspection by the Alarm Administrator.

D. Alarm Permits are not transferable from one alarm user to another alarm user or from one alarm site to another alarm site. An alarm user shall inform the Alarm Administrator of any change that alters any of the information listed on the Alarm Permit Registration application within five (5) business days of such change.

E. Alarm Permits shall be issued for a calendar year ("permit year").

F. All fines and fees owed by an Alarm Permit applicant must be paid before an Alarm Permit may be issued or renewed.

Section 10-7-2 **<u>False Alarms and Permit Revocation</u>**

A. Any alarm system which has three (3) or more false alarms within a permit year shall be subject to assessment as provided in this Subsection.

B. If the Wickenburg Police and/or Fire Department records three (3) or more false alarms within the permit year:

1. The Alarm Administrator shall notify the alarm user by certified mail of such fact and direct that a report be submitted to the Alarm Administrator within ten (10) days of the date of the notice. The report shall contain:

   a. A description of the action taken or to be taken to discover and eliminate the cause of the false alarms; and
   b. Specific defenses, if any, why the alleged false alarms should not be considered false alarms. Evidence that a false alarm was caused by an act of God, common cause or action of the telephone company shall constitute affirmative defenses to an assessment for the particular false alarm.

2. If the report is not timely received by the Alarm Administrator, any notified party shall be deemed to have waived their right to any further review or hearing as provided in this Subsection, and the alarm user operating the alarm system generating the false alarms will be assessed pursuant to Subsection 5 of this Section.

3. If the report required by Subsection B of this Section is submitted, the Alarm Administrator shall review the corrective action taken or to be taken to discover and eliminate the cause of the false alarms and the specific defenses, if any, set forth in the report. If it is determined that the corrective action taken or to be taken will substantially reduce the likelihood of false alarms or that a valid defense to the initial determination of false alarms has been accepted, a notice will be sent to the alarm user that no assessment will be made at that time. The notice shall specifically set forth the findings and conclusions of the Alarm Administrator with respect to the review of the report submitted.

4. If the Alarm Administrator determines that the action taken or to be taken will not substantially reduce the likelihood of false alarms or that a defense to the initial determination of false alarms has not been alleged or accepted, a notice shall be sent by certified mail to the alarm user that they will be assessed a false alarm assessment pursuant to Subsection 5 of this Section. The Notice of Decision shall contain the specific findings and conclusions of the Alarm Administrator with respect to the review of the report submitted.

5. Assessments imposed pursuant to this Section shall be charged per false alarm upon the fourth (4th) and any subsequent false alarms within a permit year, the amount of such assessment to be established by council resolution. The alarm user shall be responsible for the immediate payment of assessments. *Ord. 1140

6. If the alarm user fails to pay the assessment within the time provided after receipt of written notification from the Alarm Administrator as provided in this Section, the Alarm Permit may be revoked. A revoked Permit may be reinstated upon payment of a registration fee and payment of all outstanding assessments.

Section 10-7-3 **Appeal Procedures**

A. Any alarm user aggrieved by a decision of the Alarm Administrator made pursuant to this Section, may within ten (10) days of receipt of Notice of Decision, appeal to a Hearing Officer designated by the Town Manager. A copy of the appeal request shall be sent to the Alarm Administrator.

B. The request for an appeal shall set forth the specific objections to the decision of the Alarm Administrator which form the basis of the appeal.

C. The Hearing Officer shall set a time and place for the Hearing as soon as practicable.

D. The decision of the Hearing Officer shall be based upon the evidence presented and it shall:

1. Affirm the decision of the Alarm Administrator, in which case any assessment or Permit revocation imposed pursuant to this Section shall be sustained; or

2. Reverse the decision of the Alarm Administrator, in whole or part, in which case no assessment shall be imposed.

Section 10-7-4 **Penalties**

Anyone found guilty of violating any provision of this Article, except for the provisions of Section 10-7-2, shall be guilty of a Class One Misdemeanor and subject to the penalties set forth in Article 1-8.

*Ord. 1140/6-14

Ord. 1086/4-11

CHAPTER 11 SUBDIVISION

ARTICLE 11-1 PURPOSE; SUBDIVISION ADMINISTRATION

The purpose of this Chapter is to provide for the orderly growth and harmonious development of the Town of Wickenburg; to secure adequate traffic circulation through coordinated street systems with relation to the major thoroughfares, adjoining subdivisions, and public facilities; to achieve individual property lots having optimum utility and livability; to secure adequate provisions for water supply and distribution, drainage and flood control, sanitary sewerage, and other health requirements; to ensure and facilitate provision of sites for schools, recreation and other public proposes; to promote conveyance of land by accurate legal description; and to establish logical procedures for the achievement of this purpose. The Wickenburg Planning and Zoning Advisory Commission and Wickenburg Town Council are hereby designated and authorized to receive and process and otherwise act upon preliminary and final subdivision plats in accordance with these regulations. The Subdivision Committee is hereby designated as Advisory Agent to the Commission and Council. Where this Chapter imposes a greater restriction upon land improvement or development, and land use that is imposed or required by existing provisions of law, ordinance, contract, or deed, this Chapter shall control.

ARTICLE 11-2 DEFINITIONS

In this Chapter, unless the context requires otherwise:

A. ADEQ: Arizona Department of Environmental Quality. ❀

B. ADOT: Arizona Department of Transportation. ❀

C. ADWR: Arizona Department of Water Resources. ❀

D. ALL WEATHER CROSSING: A hard surface of concrete and self cleaning paved area extending across or through a water course. ❀

E. ALLEY: A public way providing secondary vehicular access and service to properties that also abuts upon a street.

F. BEDROCK: The solid, undisturbed bedrock in place either at the ground surface or beneath surficial deposits of gravel, sand or soil.❀

G. BLOCK: A piece or parcel of land or group of lots entirely surrounded by public streets, water courses, railroads or packs or a combination thereof.

H. BUILDING OFFICIAL: The Building Official for the Town of Wickenburg. ❀

I. BUILDING PERMIT: A Permit issued by the Building Official for the construction of a new or remodeled residential, industrial or commercial structure or for modifications to the use of an existing structure. ❀

J. CHD: County Health Department. ❀

K. CFCD: County Flood Control District. ❀

L. CLEARING OR GRUBBING: The removal, relocating or addition of any plant, bush, tree, cacti, or six inches (6") of top soil or rock. ❀

M. CLOMR: Conditional Letter of Map Revision. ❀

❀Ord.1046/9-09

N. COE: U.S. Army Corps of Engineers. ❀

O. CONDITIONAL APPROVAL: An affirmative action by the Planning Agency and the Town Council indicating that approval of the Preliminary Plat will be forthcoming upon satisfaction of certain specified stipulations.

P. CONTRACTOR: Party responsible for carrying out the contract per plans and specifications. ❀

Q. DEVELOPER: A person or individual, developer or his/her agent, firm, partnership, association, corporation, municipality or agent of the aforementioned groups or its agencies or political subdivisions acting as a unit as well as an individual. ❀

R. DEVELOPMENT: Any manmade change to improved or unimproved real estate, including but not limited to buildings, or other structures, mining dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. ❀

S. DRAINAGE ADMINISTRATOR: A Town appointed Public Official that oversees the effects of development on future drainage patterns with the power to enforce this ordinance. ❀

T. EASEMENT: A grant by the owner of the use of a strip of land to the public, a corporation or persons for specific uses and purposes as so designated. ❀

U. ENGINEERING PLANS: Plans, profiles, cross-sections, specifications and other details of construction of public improvements, prepared by a Registered Engineer in accordance with the approved Preliminary Plat and in compliance with public improvement standards.

V. EPA: U.S. Environmental Protection Agency that issued the regulations to control pollutants in stormwater runoff discharges (The Clean Water Act and NPDES Permit Requirements). ❀

W. EXCAVATION: Any act which earth, sand, gravel, rock or other earthen material is cut into, dug, uncovered, displaced or relocated, and shall include the conditions resulting therefrom. ❀

X. EXCEPTION: Any parcel of land located within the boundaries of a subdivision that is not included in the Plat.

Y. EXISTING GRADE: The grade or elevation of the existing ground surface prior to excavation or filling. ❀

Z. FEMA: Federal Emergency Management Agency. ❀

AA. FILL: The deposits of soil, rock, or other materials placed by humans. ❀

BB. FINAL APPROVAL: The unconditional approval of a Final Plat by the Town Council as evidence by certification thereon by the Town Clerk.

CC. FINISH GRADE: The final grade or elevation of the ground surface after grading is completed. ❀

DD. GENERAL PERMIT: A General Permit for stormwater runoff discharges associated with industrial or construction activity issued by the EPA or a delegated State under the NPDES Stormwater Regulations. ❀

❀ Ord.1046/9-09

EE. GENERAL PLAN: The Wickenburg General Plan.

FF. GRADING: Any excavation or filling or combination thereof and shall include the conditions resulting from any excavation or fill including the natural drainage pattern. ❀

GG. GRADING PERMIT: A Permit issued by the Town to perform earthwork such as grading, filling, excavating, cutting or other site earthwork, and prior to obtaining a Building Permit. ❀

HH. ITE: Institute of Transportation Engineers. ❀

II. LOMR: Letter of Map Revision. ❀

JJ. LOT: A piece or parcel of land separated from other pieces or parcels by description, as in a subdivision or on a record survey map or by metes and bounds, for purposes of lease, transfer of ownership or separate use.

1. CORNER LOT: A lot abutting on two (2) or more intersecting streets having an interior angle of intersection not exceeding one hundred thirty-five (135) degrees.
2. DOUBLE FRONTAGE LOT: An interior lot, one (1) side of which is contiguous with the rear line of a corner lot.
3. KEY LOT: An interior lot, one (1) side of which is contiguous with the rear line of a corner lot.

KK. LOT DEPTH: The distance, measured on a line parallel to the axis of the lot, between a point on the front lot line and a point on the rear lot line which is closest to the proposed or existing dwelling or principal building or any part thereof.

LL. LOT LINE: A line bounding a lot:

1. FRONT LOT LINE: The lot line coinciding with the street line; or, in the case of a corner lot, the shortest of two (2) lot lines coinciding with street lines; or, in the case of a double frontage lot, both lot lines coinciding with street lines
2. SIDE LOT LINE: Any lot line other than a front or rear lot line; in case of a corner lot, the lot line abutting the side street is termed an exterior side lot line; all other side lot lines are termed interior side lot lines.
3. REAR LOT LINE: The lot line opposite and farthest from the front lot line; for a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot.

MM. LOT WIDTH:

1. In the case of a rectangular lot or a lot abutting on the outside of a street curve, the distance between side lot lines, measured at the minimum front setback line parallel to the street or street chord.
2. In the case of a lot abutting in the inside of a street curve, the distance between side lot lines measured at the rear line of the dwelling, or when there is no dwelling, thirty feet (30') behind the minimum front setback line, parallel to the street or street chord.

NN. MAG: Maricopa Association of Governments. ❀

OO. MAJOR STREETS AND THOROUGHFARES PLAN: That part of the General Plan, which provides for development of the major streets and highways system of the Town.

PP. NFIP: National Flood Insurance Program. ❀

❀ Ord.1046/9-09

QQ. NPDES: National Pollution Discharge Elimination System is the requirement of federal law pursuant to 33 United States Code Section 1342 requiring a developer, public or private, to control or eliminate erosion and other forms of water pollution from a site. ❀

RR. ON-LOT DETENTION: The detaining of stormwater on an individual lot for a given design frequency, said area of lot being exclusive of public streets, alleys, or other land dedicated for public use. ❀

SS. ONSITE RETENTION: The retention of stormwater volume that falls on the site for a given design frequency storm, said site being exclusive of public streets, alleys, or other land dedicated for public use. ❀

TT. OUTFALL: The lowest point of the lot (when final grading and improvements are complete) that will provide for continuity of drain water disposal to the street, alley, drainage channel or easement. ❀

UU. OWNER: The person, corporation, or other legal entity, holding title to land by deed, or as vendees under land contract, or holding other title of record.

VV. PLANNING AGENCY: The Planning and Zoning Advisory Commission of the Town of Wickenburg.

WW. PLAT: A map of a subdivision.

1. PRELIMINARY PLAT: A map, including supporting data, of a proposed subdivision prepared in accordance with Section 11-3-4 (E) of this Chapter.
2. FINAL PLAT: A map of a subdivision prepared in accordance with Section 11-3-5 (E) of this Chapter.

XX. PRELIMINARY APPROVAL: Unconditional approval of a Preliminary Plat by the Subdivision Committee, as evidenced by meeting minutes and noted upon copies of the Plat.

YY. PUBLIC IMPROVEMENT STANDARDS: A set of regulations establishing specifications and instructions to be followed in planning, design and construction of certain public improvements, formulated and enforced by the Town Engineer and duly approved by the Town Council.

ZZ. PUBLIC UTILITY: Underground, above ground or overhead facilities furnishing to the public under State or Municipal regulations, electricity, gas, steam, communications, water, drainage, flood control, irrigation, garbage or trash disposal and sewage disposal; also, such person, firm, corporation, or municipal department or board, as the context indicates.

AAA. RE-SUBDIVISION: The redesign or recombination of a group of lots or record, or of an entire recorded subdivision, not involving a new street and not creating any additional lots; or, the division into more than two (2) parts of any lot, tract or parcel of land, the boundaries of which have been fixed by a recorded plat, whether or not a new street is involved; provided, however, that the transfer of ownership of parcels or strips of land to or between adjoining property owners where such transfer does not create additional lots, shall not be deemed re-subdivision.

BBB. RETAINING WALL: A wall that supports earth higher on one side than the other side (measured from the top of the footing to the top of the retaining wall); a retaining wall over three feet (3') shall be designed by a civil or structural engineer and approved by the Town prior to construction. ❀

CCC. ROUGH GRADE: An approximate elevation of the ground surface conforming to the proposed design. ❀

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❀ Ord.1046/9-09

DDD. SITE: Any lot or parcel of the land or contiguous combination thereof, under the same ownership, where grading is performed or permitted. ❀

EEE. SOIL: All earth material of whatever origin overlies bedrock. ❀

FFF. STREET: Any street, avenue, boulevard, road, lane, parkway, place, drive or right-of-way which is an existing state, county or municipal roadway; or a vehicular access way shown on a plat which has been approved by the elected body or agency given the statutory authority to do so, and duly recorded in the Office of the Maricopa County Recorder. A street includes all land within the right-of-way whether improved or unimproved, pavement, shoulders, curbs, gutters, sidewalks, parking space, bridges, viaducts and landscaping.

1. ARTERIAL ROUTE: A general term including freeways, expressways, major arterial streets and interstate, state or county highways and usually section line roads.
2. COLLECTOR STREET: A street with limited continuity serving the primary function of carrying traffic from local streets to arterial routes, and the secondary function of providing access to abutting properties.
3. LOCAL STREET: A street serving the primary function of providing access to abutting property.
4. CUL-DE-SAC: A short local street having one end permanently terminating in and including a vehicular turning area.

GGG. STREET LINE: A line describing the boundaries of a street right-of-way.

HHH. SUBDIVIDER: The person, firm, corporation, partnership, association, syndicate, trust or other legal entity that makes application and initiates proceedings for the subdivision of land in accordance with these regulations; provided, that an individual serving as agent for such legal entity shall be deemed the subdivider.

III. SUBDIVISION: The division or lease, transfer of ownership, or building development of a tract or parcel of land into four (4) or more lots, tracts or parcels; or in a new street in involved, any division of a parcel of land; or, resubdivision of land heretofore divided or platted into lots, tracts or parcels; provided that the partitioning of land in accordance with state statutes regulating partitioning of land held on common ownership, shall not be deemed a subdivision.

JJJ. SUBDIVISION COMMITTEE: That Committee established pursuant to Section 11-3-3A of this Chapter and shall consist of the Town Engineer, the Director of Public Works and the Director of the Planning Department.

KKK. SWPPP: Stormwater Pollution Prevention Plan required by Stormwater Regulations or Permits that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater and a description of measures or practices to control these pollutants. ❀

LLL. TOWN: The Town of Wickenburg, in the counties of Maricopa and Yavapai and in the State of Arizona, except as otherwise provided. ❀

MMM. TOWN ENGINEER: An engineer who is licensed by the State of Arizona and who has been employed to design or oversee work regulated by this ordinance. ❀

NNN. USEABLE LOT AREA: That portion of a lot useable for or reasonably adaptable to the normal use for which the lot is intended, and not including area which is covered by water, is excessively steep or has its normal use restricted by certain types of easements.

❀ Ord.1046/9-09

ARTICLE 11-3 PLATTING PROCEDURES AND REQUIREMENTS

11-3-1 Plat Required
11-3-2 Outline of Procedures
11-3-3 Pre-application Stage
11-3-4 Preliminary Plat Stage
11-3-5 Final Plat Stage

Section 11-3-1 Plat Required

No person, firm, corporation or other legal entity shall, for the purpose of circumventing this Chapter, hereafter sell, offer to sell or divide any lot, piece or parcel of land which constitutes a subdivision or part thereof, as refined herein, without first having recorded a plat in accordance with this Chapter.

Section 11-3-2 Outline of Procedures

The preparation, submissions, review, and official action concerning all subdivision plats located within the Town of Wickenburg shall proceed through the following progressive stages:

A. Pre-application State
B. Preliminary Plat Stage
C. Final Plat Stage

Section 11-3-3 Pre-Application Stage

This stage of subdivision planning comprises an investigatory period preceding preparation of the Preliminary Plat. If, during this stage, it is determined that a charge in zoning will be proposed for all or part of the tract, the subdivider should prepare to initiate an application for zoning amendment simultaneously with submission of a Preliminary Plat.

A. A Subdivision Committee composed of the Town Engineer, Director of Public Works and Director of Planning is hereby established and shall review all applications for Preliminary Plat approval in the Town. The Planner shall serve as Chairperson of the Subdivision Committee.
B. The subdivider shall confer with the Subdivision Committee and present informally a general outline of his proposal, including but not limited to:
   1. Sketch plans and ideas regarding land use, street and lot arrangement and tentative lot sizes;
   2. Tentative proposals regarding utility and street improvements.
C. The Subdivision Committee shall advise the subdivider of procedures, design and improvement standards and platting requirements. The Committee shall investigate the following aspects of the proposal and report its recommendations to the subdivider:
   1. Existing zoning or proposed zoning amendment;
   2. Adequacy of existing and proposed school, recreation and other public sites;
   3. Sufficiency of existing and proposed street and utility systems, existing and proposed uses of adjoining lands, and any special problems such as topography, drainage and flooding.

Section 11-3-4 Preliminary Plat Stage

This stage includes preparation, submission, review and approval of the Preliminary Plat. Processing will be expedited by submission of all information essential to determining the intended character and general acceptability of the proposal.

A. Preliminary Plat Submission
   1. Filing and Meeting Dates. An application for plat approval, together with fifteen (15) copies of the Preliminary Plat and required supporting data, prepared in accordance with Section 11-3-4(E) of this Chapter, shall be filed with the Planner at least fourteen (14) days prior to his initial meeting with the Subdivision Committee.
   2. Zoning Amendment. The Preliminary Plat shall be designed to meet all requirements of the zoning district in which it is located; however, in the event that an amendment of zoning is deemed necessary, such application shall accompany submission of the Preliminary Plat.
   3. Filing Fees. Application for plat approval shall include payment to the Town Clerk of a filing fee, the amount of which shall be established by council resolution. The filing fee shall also cover filing of an amended or revised Preliminary Plat when processed as the same case. * Ord. 1140

*Ord. 1140/6-14

4. If it meets all requirements of Section 11-3-4 (E), the application shall be assigned a case number; otherwise, it shall be rejected and the subdivider notified as to the deficiencies.

B. Preliminary Plat Review

1. It shall be the duty of the Subdivision Committee to review the Preliminary Plat for technical and engineering compliance with this Chapter and to review the plat for compliance with good planning principles.

2. On receipt of the Preliminary Plat, the Planner shall distribute copies to:

   a. The Subdivision Committee to determine compliance with provisions of this Chapter.

   b. The Town Engineer for the review of street plans and compliance with Town road and street standards, compliance with Flood Plain Regulations, and for tentative determination of street and drainage improvement requirements.

   c. The Director of Public Works for review of water and sewage disposal.

   d. The Superintendent of the Wickenburg School District for his/her information.

   e. Where the land abuts a State highway, to the Arizona Department of Transportation for recommendations regarding rights-of-way and intersection design.

   f. The Town Planner shall review the Preliminary Plat for compliance with public objectives, giving special attention to design principles and standards as set forth in Article 11-4 of this Chapter, to utility methods and systems, to existing and proposed zoning and land use of the tract and environs, and to land required for schools, parks and other public facilities.

   g. Affected electric and telephone utilities.

   h. Fire, Police and Ambulance Departments.

   i. The Trails Advisory Commission for review of locations for non-motorized trail easements.

3. The reviewing offices shall transmit their recommendations in writing to the Planner.

C. Subdivision Committee Meeting and Actions

1. If all requirements of this Chapter have been met, the Subdivision Committee shall meet with the subdivider and review the plan.

2. If it appears to the Subdivision Committee that the requirements of this Chapter have been met, the Subdivision Committee shall submit its recommendations to the Planning Agency for Preliminary Plat approval.

3. If satisfied that all objectives of these regulations have been met, the Planning Agency shall recommend approval of the Preliminary Plat to the Council.

4. If the plat is generally acceptable but requires minor revision before preparation of the Final Plat, the Planning Agency shall recommend conditional approval and specify the recommended revisions in its meeting minutes.

5. If the Planning Agency determines that the plat contains major deficiencies, and if the subdivider agrees to correct such deficiencies, the case may be held over pending revision, resubmission and reprocessing; otherwise, the Planning Agency shall recommend rejection. If the Planning Agency recommends rejection of the plat, reasons for the recommendation shall be recorded in the minutes. Thereafter, any new filing of a plat for the same tract, or any part thereof, shall follow normal procedures and be subject to a new filing fee.

6. The Preliminary Plat and the Planning Agency's recommendation shall be forwarded to the Council for final action. If the Council rejects the plat, the reasons for rejection shall be recorded in the minutes. Any new filing of a plat for the same tract, or any part thereof, shall follow normal procedures and be subject to a new filing fee. If the plat is generally acceptable but requires minor revision before preparation of the Final Plat, the Council shall find conditional approval and specify the required revision on its minutes. The Council may empower the planner to review and approve the plat when so revised.

7. Any zoning change required may be heard by the Planning Agency at the same time as Preliminary Plat approval, but shall be acted on separately.

D. Significance of Approval Ord. 1010/8-08

1. Approval of a Preliminary Plat constitutes authorization for the subdivider to proceed with the preparation of the Final Plat and engineering plans. Preliminary approval is valid for a period of twelve (12) months and may be extended once for six (6) months at the discretion of the Zoning Administrator if he/she determines that the subdivision has not been abandoned. The subdivider may submit the Final Plat, or any part thereof, on or before the expiration date. If approval expires prior to filing of Final Plat, the Preliminary Plat shall be resubmitted for approval as a new case, and a new fee paid.

2. If the Planner's review of a resubmitted plat reveals no substantial change from the previously approved Preliminary Plat and that conditions under which previous approval was granted have not changed, the filing fee shall be refunded and the resubmitted plat rescheduled for hearing by the Planning Agency.

E. Information Required for Preliminary Submission

1. Form and Scale. Preliminary Plat information shall be presented on one (1) or more plan sheets with written data entered directly thereon or contained in letters attached thereto. All mapped data for the same plat shall be drawn at the same standard engineering scale, said scale have not more than one hundred feet (100') to the inch.

2. Identification Data

   a. Proposed subdivision name; location by section, township and range; reference by dimension and bearing to a section corner or one-quarter section corner
   b. Name, address and phone number of subdivider
   c. Name, address and phone number of person preparing plat
   d. Scale, north point and date of preparation including any revision dates.

3. Existing Conditions Data

   a. Topography by contours, related to USGS survey datum or other datum approved by the Town Engineer, shown on same sheet as the subdivision layout. Contour interval shall usually be: two feet (2') for grades up to five percent (5%); five feet (5') for grades of five percent (5%) to ten percent (10%), and ten feet (10') for grades over ten percent (10%).
   b. Precise location of water wells; washes and drainage ditches, including direction of flow; location and extent of areas subject to inundation and data regarding frequency of inundation, and the delineation of the 100-Year Flood Boundary and indicating its' elevation.
   c. Location, widths and names of all platted streets, alleys, utility rights-of-way of public record; public areas and permanent structures to be retained within or adjacent to tract.
   d. Name, book and page numbers of recorded plats abutting the tract or across a boundary street
   e. Dimensions of tract boundaries and acreage of tract.

4. Proposed Conditions Data

   a. Street layout, including location and width of all streets, alleys, crosswalks and easements and proposed names of streets
   b. Lot layout, including scaled dimensions of typical lots; minimum and maximum size lots; number of lots; width and depth of all corner lots and lots on street curves; each lot numbered consecutively and total number of lots; total acreage; proposed density.
   c. Location, width and proposed use of easements
   d. Location, extent and proposed use of all land to be dedicated or reserved for public use
   e. Location and boundaries of all existing and proposed zoning classifications
   f. Draft of proposed deed restrictions.

5. Proposed utilities. The Preliminary Plat shall include the layout of all proposed utilities. Preliminary drainage calculations and layout o proposed storm drainage system shall be submitted, including location of outlets.

Section 11-3-5 Final Plat Stage

This stage includes final design of the subdivision, final engineering of public improvements, submittal of plat and plans by the subdivider, plat review by the Planner and Planning Agency and final hearing by the Council. No plat shall be submitted for final approval by the Council until plans for all off-site improvements have been approved by the Town Engineer.

A. Presubmission Requirements.

1. Zoning. The Final Plat shall meet all requirements of the zoning district in which it is located; and necessary zoning amendments shall have been adopted by the Council prior to filing of the Final Plat.
2. Preparation of Final Plat. The Final Plat shall be in substantial conformance to the approved Preliminary Plat and be prepared in accordance with Section 11-3-4 (E) of this Chapter.
3. Easements. Final Plat submission shall include letters signifying approval of utility easements by the public utilities.

B. Final Plat Submission. The Final Plat and four (4) true copies thereof, together with the recordation fee, shall be filed with the Town Clerk at least twenty-one (21) days prior to the Council meeting at which the case is to be heard. The Clerk shall record the date of filing and immediately transmit the submittal to the Planner. At the time of submission for Final Plat approval, a filing fee shall be paid the amount of which shall be established by council resolution: *Ord. 1140

C. Final Plat Review.
1. The Planner shall check the submittal for completeness: If incomplete, it shall be returned to the Clerk, the filing date shall be voided and the subdivider so notified. If complete and if the Final Plat substantially conforms to the approved Preliminary Plat, the Planner shall summarize recommendations for presentation to the Town Council. (⌧ Ord. 933/11/04)
2. If, in the opinion of the Planner, the Final Plat does not substantially conform to the approved Preliminary Plat, the plat shall be presented to the Subdivision Committee for its recommendation to the Planning Agency.

D. Final Plat Approval & Recordation. ■Ord. 1028/2-09
1. Upon notification from the Planner that the plat is in order, the Town Clerk shall enter the case on the agenda of the next regular meeting of the Town Council whereupon the Council shall approve or reject the plat. If the Council rejects the plat for any reason whatsoever, the reasons shall be recorded in the minutes. If Council approves the plat, the Town Clerk shall transcribe a Certificate of Approval upon the plat, first making sure that the other certificates required in Section 11-3-4-(E) of this Chapter have been duly executed. (⌧ Ord. 933/11/04)

2. If the plat is approved, the Town Clerk shall then record the plat in the Maricopa County Recorder's office. The subdivider shall pay the recordation fees. Two (2) copies of the recorded plat shall be retained in the Subdivision Committee's file.

3. All rights-of-way and improvements intended to be dedicated to the Town for maintenance and operation shall be constructed and/or installed within the time period agreed upon pursuant to an agreement to install improvements as required by Section 11-5-9. Dedications and improvements shall not be considered complete until the Town Council, upon recommendation of the Town Engineer and Public Works Director accepts such dedications and improvements into the Town's street and utility system. If accepted, the Town Clerk shall then record such dedications and improvements in the Maricopa County Recorder's office. Engineering plans for required improvements must be submitted within 90 days after approval of the final plat, pursuant to section 11-5-7.

Rev. 6/92
⌧ Ord. 933/11-04
■Ord. 1028/2-09
*Ord. 1140/6-14

E. Information Required for Final Plat Submission.

1. Medium of Presentation.
   a. The Final Plat shall be drawn in India ink on linen, plastic or other non-shrinking material on a sheet or sheets of twenty-four inches (24") by thirty-six inches (36") proportions.
   b. The plat shall be drawn to an accurate scale having not more than one hundred feet (100') to an inch.
   c. Copies of the Final Plat shall be reproduced in the form of blueline or black ink prints on a white background.
2. Identification Data.
   a. Name of subdivision and location by section, township, range and county
   b. Name, address and registration number or seal of the registered professional engineer or registered land surveyor preparing the plat
   c. Scale, north point and date of plat preparation.
3. Survey Data.
   a. Boundaries of the tract fully balanced and closed, showing all bearings and distances, determined by an accurate survey in the field; all dimensions expressed in feet and decimals thereof
   b. Any exceptions within the plat boundaries located by bearings and distances expressed in feet and decimals thereof, determined by an accurate survey in the field
   c. Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the plat are referenced; two (2) corners of the subdivision traverse shall be tied by course and distance to separate section corners or quarter section corners
   d. Location and description of all physical encroachments upon the boundaries of the tract.
   e. Establish and permanently set a minimum of one (1) elevation monument for every twenty (20) acres in the proposed subdivision.
4. Descriptive Data.
   a. Name, right-of-way lines, courses, lengths, width of all public streets, alleys, crosswalks, and utility easements; radii points of tangency, and central angles of all curvilinear streets and alleys and radii of all rounded street intersections
   b. All drainage ways, designated as such and dedicated to the public
   c. All utility and public service easements, including any limitations of easements; construction within such easements shall be limited to utilities, landscaping and wood, wire or removable section type fences
   d. Location and all dimensions of all lots
   f. All lots numbered consecutively throughout the plat; exceptions and tracts shall be dimensioned and identified by letter or number
   g. Location of all adjoining subdivisions with date, book and page number of recordation noted, or if unrecorded, so marked.
   h. Any private deed restrictions to be imposed upon the plat or any part thereof, typewritten and attached to the plat and to each copy thereof.
   i. The Flood Zone as established by the Federal Emergency Management Agency shall be indicated for each lot or parcel within the proposed Subdivision.
   j. Existing and approved future improvements. Required improvements to be shown on the plat may include streets, utilities, stormwater drainage and retention, recreation and open space facilities, survey monuments, landscaping, streetlights, street and traffic control signs, and fencing. Ord. 1028/2-09
5. Dedication and Acknowledge Ord. 1028/2-09
   A. Streets, Rights-Of-Way and Public Easements. Statement of dedication of all streets, alleys, crosswalks, drainage ways and easements for public purposes by the owners and spouses of the owners; if land to be dedicated are mortgaged, the mortgagee shall also sign the plat. Dedication shall include a written description by section, township and range of the tract. If the plat contains private streets, public utilities shall be reserved the right to install and maintain utilities in the street rights-of-way. The Town Engineer shall establish required dedication language.
   B. Private Utility Easements. All easements required to be dedicated to a private utility shall be identified on the plat. The Final Plat shall contain an offer of dedication for all such easements to the appropriate utility company. Acceptance of such offers shall be the responsibility of the utility company.

Ord. 1028/2-09

6. Certifications.
   a. Certification by the registered professional engineer or registered land surveyor making the plat that it is correct and accurate, and that the monuments described in it have been located as described.
   b. Certificates of approval by Planning Agency.
   c. Certificate of approval of the Council by the Town Clerk.
   d. Certification of recordation by the Maricopa County Recorder.

ARTICLE 11-4 SUBDIVISION DESIGN PRINCIPLES AND STANDARDS

11-4-1 Conform to Requirements
11-4-2 Public Sites
11-4-3 Land Unsuitable for Proposed Use
11-4-4 Street Location and Arrangement
11-4-5 Street Design
11-4-6 Construction Standards and Specifications
11-4-7 Lot Planning
11-4-8 Easement Planning
11-4-9 Street Names
11-4-10 Street Lights

Section 11-4-1 Conform to Requirements

Every subdivision shall conform to requirements and objectives of the General Plan, or any parts thereof, as adopted by the Council, to the Wickenburg Zoning Code, to other ordinances and regulations of the Town, and the Arizona Revised Statutes, as amended.

Section 11-4-2 Public Sites

Where the tract contains all or any part of the site of a school, park or other public site, as shown on the General Plan or as recommended by the Council, such site shall either be dedicated to the public or reserved for acquisition by the public within a specified period of time. An agreement shall be reached between the subdivider and the appropriate public agency regarding time, method and cost of such acquisition. In the event of failure to reach such agreement within a reasonable period of time for reasons satisfactory to the Council, the Council may determine that requirements of this section have been met.

Section 11-4-3 Land Unsuitable for Proposed Use

Land subject to periodic flooding or land which cannot be properly drained or land which, in the opinion of the Subdivision Committee, is unsuitable for the proposed use, shall not be subdivided; however, upon recommendation of the Subdivision Committee, the Council may approve subdivision of such land upon receipt of evidence from a registered civil engineer, that the construction of specific improvements can be expected to render the land useable, in which event construction upon such land shall be prohibited until the specified improvements have been planned in an acceptable manner and construction has been planned in an acceptable manner and construction has been guaranteed. All requirements of the Town's Floodplain Chapter shall be met.

Section 11-4-4 Street Location and Arrangement

A. Whenever the tract embraces any part of a street designated in the adopted major streets and thoroughfares plan, such street shall be platted in conformity therewith.

B. Street layout shall provide for the continuation of existing collector streets in adjacent areas and such other streets as the Subdivision Committee may designate.

C. Whenever the tract is located within an area for which a neighborhood plan has been approved by the Planning Agency, the street arrangement shall conform substantially to that plan.

D. Certain proposed streets, as designated by the Subdivision Committee, shall be extended to the tract boundary to provide future connections with adjoining unplatted lands. In general, these extensions should not be farther apart than the maximum permitted length of a block. (See Section 11-4-5 (E).)

E. Local streets shall be so arranged as to discourage their use by traffic originating outside the immediate area.

F. When a proposed subdivision abuts or contains an existing or proposed arterial route, the Subdivision Committee may require marginal access streets or reverse frontage with non-access easements along the arterial route or such other treatment as may be justified for protection of properties from the nuisance and hazard of high volume traffic and for preservation of the traffic function of the arterial route.

G. When a residential subdivision abut the right-of-way of a railroad or limited access highway or abuts a commercial or industrial land use, the Subdivision Committee may recommend location of a street approximately parallel to such right-of-way or use at a distance suitable for appropriate use of intervening land, such distance being determined with due regard for approach grades, drainage, bridges or future grade separations.

H. Streets shall be so arranged in relation to existing topography as to produce desirable lots of maximum utility and streets of reasonable gradient, and to facilitate adequate drainage.

I. Except where alleys are justified by special conditions, they are not considered appropriate in residential subdivisions; however continuation to a logical outlet of an existing dead end alley in an adjoining subdivision and the extension of an existing alley pattern where underground utilities are located in alleys shall be considered justifying conditions. When alleys are platted, the alley alignment and arrangement shall be such as to provide optimum convenience for truck service circulation and to avoid alley openings opposite fronts of residential lots. Alleys shall be required at the rear of multi-family residential, commercial or industrial developments; except where, in the opinion of the Subdivision Committee, other provision is made for adequate permanent access for proposes of fire protection, parking and loading.

J. Half streets are discouraged except where necessary to provide rights-of-way required by the major streets and thoroughfares plan, to complete a street pattern already begun or to ensure reasonable development of an adjoining unplatted parcel. Where a half street exists abutting the tract and said half street furnishes the sole access to residential lots, the remaining half street shall be platted within the tract.

Section 11-4-5 Street Design

A. Minimum Required Right-of-Way Widths

1. Principal and major arterial rights-of-way shall be determined by the Town Engineer prior to submittal of a Preliminary Plat. The right-of-way requirement shall be based on the standards set forth in the General Plan as mitigated by existing conditions of topography, traffic volume and traffic flow.

2. Collector streets. Sixty feet (60')

3. Local streets

   a. Local streets serving single-family residences only. Fifty feet (50')

   b. Local streets serving multi-family, commercial or industrial frontages. Sixty feet (60')

   c. Cul-de-sac streets shall terminate in a circular right-of-way fifty feet (50') radius with an improved traffic turning circle at least forty feet (40') in radius, or Council may approve an alternate, yet equally convenient turn around configuration justified by unique or extraordinary conditions.

4. Maximum Length of Cul-De-Sac Streets

   Four hundred feet (400') measured along the street centerline from the intersection of right-of-way lines to the extreme depth of the turning circle.

5. Alleys

   Sixteen feet (16') when there is residential property on both sides or twenty feet (20') when abutting commercial or industrial districts.

   a. Alley intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off ten feet (10') on each side to permit safe vehicular movement.

   b. Dead end alleys shall be prohibited.

   c. All "half" alleys shall have a minimum width of twelve feet (12').

6. Dead End Streets

   Dead end streets shall not be approved except in locations designated by the Planning Commission as necessary for connection to adjacent unplatted lands. In any case, a dead end street serving more than four (4) lots shall provide by easement a temporary turning circle with a forty foot (40') radius or other acceptable design to accomplish the same purpose.

B. Grades

1. Maximum Grades
   a. Collector streets – seven percent (7%)

   b. Local streets – ten percent (10%).

C. Vertical Curves

Collector and local streets minimum length – one hundred feet (100').

D. Horizontal Alignment

1. When tangent centerlines deflect from each other more than ten (10) degrees and less than ninety (90) degrees, they shall be connected by a curve with a minimum centerline radius of five hundred feet (500') for collector streets, or one hundred fifty feet (150') for local streets.
2. Between reverse curves there shall be a tangent section of centerline not less than one hundred feet (100') long.
3. Streets intersecting an arterial route shall do so at a ninety (90) degree angle; local streets shall typically intersect at right angles, but in no case at less than seventy-five (75) degrees.
4. Street jogs with centerline offsets of less than one hundred twenty-five feet (125') shall be avoided, except where unique or extraordinary conditions may justify modification as approved by the Planning Commission.
5. Local streets intersecting a collector street or arterial route shall have a tangent section of centerline at least one hundred fifty feet (150') in length measured from the right-of-way line of the major street; except that no such tangent is required when the local street curve has a centerline radius greater than four hundred feet (400') measured from a center located on the major street right-of-way line.
6. Street intersections with more than four (4) legs and Y-type intersection with legs meeting at acute angles shall be prohibited.
7. Street line intersections shall be rounded by a circular arc having a minimum tangent length of twelve feet (12').

E. Maximum Block Length

Fifteen hundred feet (1500') measured along the centerline of the street and between intersecting street centerlines; except in subdivisions where lot areas average one half (1/2) acre or more, this maximum may be exceeded by five hundred feet (500').

Section 11-4-6 Construction Standards and Specifications

All construction within the public right-of-way shall conform to the latest edition of the Uniform Standard Details for Public Works Construction and the Uniform Standard Specifications for Public Works Construction published by the Maricopa Association of Governments (MAG).

Section 11-4-7 Lot Planning

A. Lot Width, Depth and Area.

1. Lot width, depth and area shall comply with the minimum requirements of the Zoning Code; however, where drainage problems exist or prevail, the Subdivision Committee may require special lot width, depth and area exceeding minimum requirements of the zoning district.
2. Depth to width ratio of the useable area of a lot shall usually be not greater than three (3) to one (1).

B. Side lot lines shall be substantially at right angles or radial to street lines, except where other treatment can be justified.

C. Every lot shall abut upon a public street furnishing satisfactory access to another existing public street; except that where special circumstances justify, private streets may be permitted provided that they are constructed to standards acceptable to the Subdivision Committee, are contained in a permanent private easement and responsibility for continued maintenance in vested in a corporation of lot owners.

D. Single-family residential lots extending through the block and having frontage on two (2) non-intersecting streets shall be prohibited. Reverse frontage along any street shall be prohibited except where expressly permitted in accordance with Section 11-4-4 (F) of this Code or where otherwise justified in the opinion of the Subdivision Committee.

Section 11-4-8 Easement Planning

A. UTILITY EASEMENTS. Easements for utilities shall be provided as follows:

1. GENERAL. Ord. 1043/7-09
   a. Where alleys are provided – four feet (4') for aerial overhang on each side of alley, provided for by dedication but not delineated on plat.
   b. Where no alley in provided – six feet (6') on each side of rear lot lines.
   c. Along side lot lines – six feet (6') on each side of lot lines for distribution facilities and, when determined necessary by the public utility, one foot (1') on each side of lot lines for street lighting.
   d. Guy and anchor easements – one foot (1') on each side of a lot line and approximately thirty-five feet (35') in length measured from the rear lot line in locations designated by the public utility.
2. EASEMENT DESIGN. For lots facing on curvilinear streets, utility easements or alleys shall usually consist of a series of straight lines with points of deflection not less than one hundred twenty feet (120') apart, said paints of deflection always occurring at the junction of side and rear lot lines on the side of the exterior angle; however, curvilinear easements or alleys may be employed, providing that the minimum radii of centerlines are not less that eight hundred feet (800').
3. DRAINAGE. Where an important surface drainage course abuts or crosses the tract, dedication of a public drainage way of a width sufficient to permit widening, deepening, relocating, or protecting such drainage course shall be required.
4. USABLE LOT AREA. Land within a public street or drainage way, or land within an easement for major power transmission (tower) lines or pipelines shall not be considered a part of the usable lot area except where lots exceed one-half (1/2) acre in area; provided that this shall not be applicable to land included in utility easements for distribution or service purposes.
5. NON-ACCESS EASEMENTS. Lots arranged to back to major streets, railroads or commercial or industrial districts, as provided in Section 11-4-4 (F), shall have a recorded non-access private easement one foot (1') wide along the rear lot line.

B. TRAIL EASEMENTS. Easements for trails shall be provided as follows:
   1. GENERAL. Non-motorized trail easements shall be dedicated for non-motorized public use.
   2. REQUIREMENTS. Trail easements shall be required only in existing washes and suitable terrain.

Section 11-4-9 Street Names

Street names shall be consistent with the natural alignment and extension of existing named streets; new street names shall not duplicate or be closely similar to any existing street name.

Section 11-4-10 Street Lights

Street lights are required in all subdivisions in accordance with the adopted Street Light Policy of the Town and as specified in the Schedule of Improvements charted in Article 11-5 or as required by the Town Engineer for vehicular or pedestrian safety and at all intersections which involve arterial or collector streets.

ARTICLE 11-5 STREET AND UTILITY IMPROVEMENT REQUIREMENTS

11-5-1 Purpose
11-5-2 Responsibility for Improvements
11-5-3 Engineering Plans
11-5-4 Construction and Inspection
11-5-5 Required Improvements
11-5-6 Lift Stations, Septic Tanks and Water Supply
11-5-7 Submittal, Review and Approval of Engineering Plans
11-5-8 Schedule of Improvement Requirements
11-5-9 Agreement to Install Improvements
11-5-10 Final Acceptance And Dedication Of Street, Utility And Public Improvements Ord. 1028/2-09

Section 11-5-1 Purpose

It is the purpose of this Article to establish in outline the minimum acceptable standards for improvement of public streets and utilities, to define the responsibility of the subdivider in the planning, construction and financing of public improvements and to establish procedures for review and approval of engineering plans.

Section 11-5-2 Responsibility for Improvements

A. The planning, construction and financing of all required sidewalks, curbs, gutters, pavement, sanitary sewers, storm sewers, water mains, fire hydrants, drainage structures, trail easements and street lights shall be the responsibility of the subdivider and shall comply with public improvement standards approved by the Town. The Town will not consider allowing a subdivider to meet the requirements for this Section by participation in a Town Improvement District.

B. Schedule of Required Improvements: Improvements required by this Section shall be set forth according to the schedules in Section 11-5-8 of this Chapter.

C. Ribbon curbs shall be allowed in subdivisions having a minimum lot size of 21,500 square feet when, in the opinion of the Subdivision Committee, they are the preferable curb system in terms of drainage and the use of ribbon curbs will not compromise the function or structural integrity of the roadway, nor unnecessarily create additional maintenance costs for the Town. The subdivider shall be responsible for providing the necessary engineering documentation to support the use of ribbon curbs.

Section 11-5-3 Engineering Plans Ord. 1010/8-08

A. The subdivider shall be responsible for having a registered engineer prepare a complete set of engineering plans, satisfactory to the Town Engineer, for construction of required improvements. Such plans shall be based on the approved Preliminary Plat and be prepared in conjunction with the Final Plat. The engineer shall not be the Town Engineer nor any engineer retained by or operating as an independent contractor of behalf of the Town. Engineering plans shall have been approved by the Town Engineer prior to approval of the Final Plat and shall be within specifications of the Town and in accordance with good engineering practices.

B. The subdivider shall pay a Plan Review Fee as established by Resolution of the Town Council. Said fees shall be paid upon submittal of the plans. Ord. 1010/8-08

Section 11-5-4 Construction and Inspection

A. All improvements in the public right-of-way shall be constructed under inspection and approval of the Town Engineer. Construction shall not commence until a Permit has been issued for such construction, and if work has been discontinued for any reason, it shall not be resumed until after notifying the Town Engineer in advance.

B. All underground utilities to be installed in streets shall be constructed prior to the surfacing of such streets. Service stubs to platted lots within the subdivision for underground utilities shall be placed to such length as to avoid disturbance of street improvements when service connections are made.

Section 11-5-5 Required Improvements

Street and utility improvements shall be designed and constructed in compliance with adopted public improvements standards and in accordance with the adopted schedule of improvement requirements.

Section 11-5-6 Lift Stations, Septic Tanks and Water Supply

A. The use of lift stations in approved sewer systems may be allowed in accordance with the following standards and requirements:
   1. All lift stations shall be Gorman-Rupp or equivalent as approved by the Town Engineer and Public Works Director.
   2. Lift stations shall be designed and sized to serve the sewer service area defined by the Master Sewer Plan or as otherwise required by the Public Works Director and the Town Engineer.
   3. All lift station installations shall be covered by a comprehensive warranty by the developer or the manufacturer for a minimum period of one (1) year.

Ord. 1010/8-08

Ord. 1043/7-09

4. The developer shall provide the Town with a back up motor and pump prior the final sign off by the Town for the Arizona State Department of Real Estate

B. The septic tanks may be utilized in subdivisions consisting of lots with a minimum size of one (1) acre in accordance with the following:

1. When the cost of extending the sewer to the project site is four (4) times the cost of installing septic and dry sewer systems.

2. A Hydro-Geologic Study has been completed and sealed by a registered hydro-geologist or other qualified professional registrant which finds that the area to be subdivided can accommodate septic systems without posing a threat to the groundwater.

3. That the installation of a septic system is prohibited within the area delineated by the Well Head Protection Program as a Well Head Protection Zone.

4. That all requirements of the Maricopa County Health Department regarding the installation of septic tanks shall be complied with.

5. That in any subdivision with a minimum lot size of one (1) acre which utilizes septic systems, a dry sewer shall also be installed. Upon approval of the Town's Public Works Director and Engineer, Polyvinyl Chloride (PVC) pipe may be utilized in conformance with Maricopa Association of Governments (MAG) Standard Details and Specifications for Public Works Construction.

6. ✱Subdivisions with a minimum lot size as restricted by zoning to 175,000 square feet may utilize septic systems in accordance with Paragraphs 2 though 4 of this Subsection.

C. ✱All subdivisions, except those having a minimum lot size of 175,000 square feet as restricted by zoning shall be served by the Town's water system. Subdivisions that are restricted by zoning to a minimum lot area of 175,000 square feet may utilize shared private wells upon approval of a Fire Protection Plan as recommended to the Town Council by the Wickenburg Fire Chief.

The subdivider shall provide facilities for an adequate water supply for fire flow to the subdivision in accordance with the Town's Fire Code. If the facilities are not directly connected to the Town Water System, such facilities shall be adequate to deliver throughout the subdivision a minimum 1,000 gallons per minute for a thirty (30) minute duration and shall include a backup power source. Fire flow requirements may be decreased by fifty percent (50%) if an approved automatic fire sprinkler system is installed in all units in the subdivision. ≈

Section 11-5-7 <u>Final Plat Submittal</u>

Two (2) sets of engineering plans and specifications for the installation of required streets, sewer, electric and water utilities; drainage; streetlights; flood control; adequacy of water and improvements shall be filed with the Town Engineer simultaneously with filing of the Final Plat. Plans shall be reviewed by the Town Engineer and a Certificate of Approval filed with the Town Clerk prior to recordation of the plat. If engineering plans have not been approved within ninety (90) days after approval of the Final Plat, the Council may require that the Final Plat be resubmitted.

Rev. 12/92/
✱Rev.6/02-Ord. 882
≈ Ord. 1020/12-08

Section 11-5-8 Schedule Of Improvement Requirements for Subdivisions

A. Type "A" Development. All multi-family residential developments and motels, which constitute, or are located in, a subdivision.

TYPE "A" DEVELOPMENT

A. All multi-family residential developments and motels, which constitute, or are located in, a subdivision.

REQUIRED STREET IMPROVEMENTS

1. COLLECTOR STREETS
   a. Sixty (60) foot right-of-way; forty (40) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.
   b. Five (5) foot concrete sidewalks.

2. MINOR STREETS
   a. Sixty (60) foot right-of-way; forty (40) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.
   b. Four (4) foot concrete sidewalks.

3. CUL-DE-SAC STREETS (Rev.8/03/Ord.903)
   a. Fifty foot (50') right-of-way radius with a paved turning circle having a radius of thirty-seven and one half feet (37.5') to face of curb for a curb face to curb face diameter of seventy-five feet (75'). Twenty-four inch (24") vertical curb and gutter.
   b. Four (4) foot concrete sidewalks.

4. ALLEYS
   a. Sixteen (16) foot right-of-way; sixteen (16) foot pavement width with normal or inverted crown depending on drainage needs.

5. STREET AND LOT GRADING; CURB & GUTTER; PAVEMENT; SIDEWALKS: all per adopted standard details and specifications.

6. STREET SIGNS to be placed at all intersections upon completion of pavement; per adopted standard details and specifications.

7. MONUMENTS: permanent monuments shall be installed at all corners, angle points, points of curve, and street intersections. After installation of all improvements, subdivider shall have registered engineer or land surveyor check location of monuments and certify as to their accuracy.

8. CORNER MARKERS: iron pipe shall be set at all corners, angle points and points of curve for each lot prior to plot recordation.

9. STREET LIGHTING: in accordance with Section 11-4-10

REQUIRED UTILITY IMPROVEMENTS

1. SEWAGE DISPOSAL: Public system per adopted standard details and specifications

2. WATER SUPPLY: Public system per adopted standard details and specifications

3. STORM DRAINAGE:
   a. Underground collection system discharging into dedicated surface drainage ways or underground drains; per adopted standards and specifications as determined appropriate for the individual development by the Town Engineer.
   b. All existing streets within or abutting the plat shall be drained to acceptable outlet; all drains shall be within dedicated public easements.

TYPE "B" DEVELOPMENT

B. All single-family developments having a lot area less than 21,500 square feet; all two family developments and mobile home subdivisions.

REQUIRED STREET IMPROVEMENTS

1. COLLECTOR STREETS
   a. Sixty (60) foot right-of-way; forty (40) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.
   b. Five (5) foot concrete sidewalks.

2. MINOR STREETS
   a. Fifty (50) foot right-of-way; thirty-two (32) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.
   b. Four (4) foot concrete sidewalks.

3. CUL-DE-SAC STREETS (Rev.8/03/Ord.903)
   a. Fifty foot (50') right-of-way radius with a paved turning circle having a radius of thirty-seven and one half feet (37.5') to face of curb for a curb face to curb face diameter of seventy-five feet (75'). Twenty-four inch (24") vertical curb and gutter.
   b. Four (4) foot concrete sidewalks.

4. ALLEYS - Prohibited

5. STREET AND LOT GRADING; CURB & GUTTER; PAVEMENT; SIDEWALKS: all per adopted standard details and specifications.

6. STREET SIGNS to be placed at all intersections upon completion of pavement; per adopted standard details and specifications.

7. MONUMENTS: permanent monuments shall be installed at all corners, angle points, points of curve, and street intersections. After installation of all improvements, subdivider shall have registered engineer or land surveyor check location of monuments and certify as to their accuracy.

8. CORNER MARKERS: iron pipe shall be set at all corners, angle points and points of curve for each lot prior to plot recordation.

9. STREET LIGHTING: in accordance with Section 11-4-10

REQUIRED UTILITY IMPROVEMENTS

1. SEWAGE DISPOSAL: Public system per adopted standard details and specifications

2. WATER SUPPLY: Public system per adopted standard details and specifications

3. STORM DRAINAGE:
   a. Underground collection system discharging into dedicated surface drainage ways or underground drains; per adopted standards and specifications as determined appropriate for the individual development by the Town Engineer.
   b. Surface collection system discharging into dedicated surface drainage ways per adopted standards and specifications.
   c. All existing streets within or abutting the plat shall be drained to acceptable outlet; all drains shall be within dedicated public easements.

TYPE "C" DEVELOPMENT

C. All single-family residential developments having a minimum lot area exceeding 21,500 square feet.

REQUIRED STREET IMPROVEMENTS

1. COLLECTOR STREETS
   a. Sixty (60) foot right-of-way; forty (40) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.
   b. Five (5) foot concrete sidewalks.

2. MINOR STREETS
   a. Fifty (50) foot right-of-way; thirty-two (32) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter, or Ribbon Curb in accordance with Section 11-5-2,C.

3. CUL-DE-SAC STREETS (Rev.8/03/Ord.903)

   a. Fifty foot (50') right-of-way radius with a paved turning circle having a radius of thirty-seven and one half feet (37.5) to face of curb for a curb face to curb face diameter of seventy-five feet (75'). Twenty-four inch (24") vertical curb and gutter or ribbon curb in accordance with Section 11-5-2-C.

4. ALLEYS - Prohibited

5. STREET AND LOT GRADING; CURB; OR CURB & GUTTER; PAVEMENT all per adopted standard details and specifications.

6. SIDEWALKS: required for all Collector Streets; optional for minor streets and cul-de-sac streets.

7. STREET SIGNS to be placed at all intersections upon completion of pavement; per adopted standard details and specifications.

8. MONUMENTS: permanent monuments shall be installed at all corners, angle points, points of curve, and street intersections. After installation of all improvements, subdivider shall have registered engineer or land surveyor check location of monuments and certify as to their accuracy.

9. CORNER MARKERS: iron pipe shall be set at all corners, angle points and points of curve for each lot prior to plot recordation.

10. STREET LIGHTING: in accordance with Section 11-4-10

REQUIRED UTILITY IMPROVEMENTS

1. SEWAGE DISPOSAL: Public system per adopted standard details and specifications

2. WATER SUPPLY: Public system per adopted standard details and specifications

3. STORM DRAINAGE:
   a. Surface collection system discharging into dedicated surface drainage ways per adopted standards and specifications.
   b. All existing streets within or abutting the plat shall be drained to acceptable outlet; all drains shall be within dedicated public easements.

TYPE "D" DEVELOPMENT

D. All single-family residential developments having a minimum lot area of 35,000 square feet and zoned R1-35.

REQUIRED STREET IMPROVEMENTS

1. COLLECTOR STREETS
   a. Sixty (60) foot right-of-way; forty (40) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.
   b. Five (5) foot concrete sidewalks.

2. MINOR STREETS
   a. Fifty (50) foot right-of-way; thirty-two (32) foot pavement width measured back to back of curb; twenty-four (24) inch vertical curb and gutter, or Ribbon Curb in accordance with Section 11-5-2,C.

3. CUL-DE-SAC STREETS (Rev.8/03/Ord.903)

   a. Fifty foot (50') right-of-way radius with a paved turning circle having a radius of thirty-seven and one half feet (37.5) to face of curb for a curb face to curb face diameter of seventy-five feet (75'). Twenty-four inch (24") vertical curb and gutter or ribbon curb in accordance with Section 11-5-2-C.

4. ALLEYS - Prohibited

5. STREET AND LOT GRADING; CURB; OR CURB & GUTTER; PAVEMENT all per adopted standard details and specifications.

6. SIDEWALKS: required for all Collector Streets; optional for minor streets and cul-de-sacs

7. STREET SIGNS to be placed at all intersections upon completion of pavement; per adopted standard details and specifications.

8. MONUMENTS: permanent monuments shall be installed at all corners, angle points, points of curve, and street intersections. After installation of all improvements, subdivider shall have registered engineer or land surveyor check location of monuments and certify as to their accuracy.

9. CORNER MARKERS: iron pipe shall be set at all corners, angle points and points of curve for each lot prior to plot recordation.

10. STREET LIGHTING: not required

REQUIRED UTILITY IMPROVEMENTS

1. SEWAGE DISPOSAL: Public system per adopted standard details and specifications or as otherwise stipulated in Section 11-5-6,B., for lots having a minimum area of 43,560 square feet.

2. WATER SUPPLY: Public system per adopted standard details and specifications

3. STORM DRAINAGE:
   a. Surface collection system discharging into dedicated surface drainage ways per adopted standards and specifications.
   b. All existing streets within or abutting the plat shall be drained to acceptable outlet; all drains shall be within dedicated public easements.

TYPE "E" DEVELOPMENT

E. All single-family residential subdivisions having a minimum lot area of five (5) acres or more, but not restricted to said area by zoning.

REQUIRED STREET IMPROVEMENTS

1. COLLECTOR STREETS
   a. Sixty (60) foot right-of-way; forty (40) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.

2. MINOR STREETS
   a. Fifty (50) foot right-of-way; thirty-two (32) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter, or Ribbon Curb in accordance with Section 11-5-2,C.

3. CUL-DE-SAC STREETS (Rev.8/03/Ord.903)

   a. Fifty foot (50') right-of-way radius with a paved turning circle having a radius of thirty-seven and one half feet (37.5) to face of curb for a curb face to curb face diameter of seventy-five feet (75'). Twenty-four inch (24") vertical curb and gutter or ribbon curb in accordance with Section 11-5-2-C.

4. ALLEYS - Prohibited

5. STREET AND LOT GRADING; CURB; OR CURB & GUTTER; PAVEMENT all per adopted standard details and specifications. Ribbon curb may be used as approved by Town Engineer.

6. SIDEWALKS: required for all Collector Streets; optional for minor streets and cul-de-sacs.

7. STREET SIGNS to be placed at all intersections upon completion of pavement; per adopted standard details and specifications.

8. MONUMENTS: permanent monuments shall be installed at all corners, angle points, points of curve, and street intersections. After installation of all improvements, subdivider shall have registered engineer or land surveyor check location of monuments and certify as to their accuracy.

9. CORNER MARKERS: iron pipe shall be set at all corners, angle points and points of curve for each lot prior to plot recordation.

10. STREET LIGHTING: not required

REQUIRED UTILITY IMPROVEMENTS

1. SEWAGE DISPOSAL: Public system per adopted standard details and specifications or as otherwise stipulated in Section 11-5-6.

2. WATER SUPPLY: Public system per adopted standard details and specifications

3. STORM DRAINAGE:
   a. Surface collection system discharging into dedicated surface drainage ways per adopted standards and specifications.
   b. All existing streets within or abutting the plat shall be drained to acceptable outlet; all drains shall be within dedicated public easements.

TYPE "F" DEVELOPMENT

F. ✷All single-family residential subdivisions restricted by zoning to a minimum lot area of 175,000 square feet.

REQUIRED STREET IMPROVEMENTS

1. COLLECTOR STREETS
   a. Sixty (60) foot right-of-way; forty (40) foot pavement measured back to back of curb; twenty-four (24) inch vertical curb and gutter.

2. MINOR STREETS
   a. Fifty (50) foot right-of-way; thirty-six (36) foot road bed; twenty-eight (28) foot paving width with Maricopa Edge having a minimum width of twelve (12) inches, minimum depth of eight (8) inches, and a minimum base width of six (6) inches (reference MAG Standard Detail No. 201). All driveways shall be paved between the edge of the paved roadway and the right-of-way line. Curb and gutter shall be provided for the length of the driveway, with a twenty (20) foot radius and extending along edge of paved roadway from point of tangency for a minimum distance of twenty (20) feet. Curb or curb and gutter as required by the Town Engineer and Public Works Director for drainage and erosion control.

3. CUL-DE-SAC STREETS (Rev.8/03/Ord.903)

   a. Fifty foot (50') right-of-way radius with a paved turning circle having a seventy-five foot (75') diameter with Maricopa Edge. Curbing or curb and gutter as required by the Town Engineer and Public Works Director.

4. ALLEYS - Prohibited

5. STREET AND LOT GRADING; CURB; OR CURB & GUTTER; PAVEMENT: as per adopted standard details and specifications. May use Maricopa Edge as approved by the Town Engineer and Public Works Director.

6. SIDEWALKS: required for all Collector Streets; optional for minor streets and cul-de-sacs.

7. STREET SIGNS to be placed at all intersections upon completion of pavement; per adopted standard details and specifications.

8. MONUMENTS: permanent monuments shall be installed at all corners, angle points, points of curve, and street intersections. After installation of all improvements, subdivider shall have registered engineer or land surveyor check location of monuments and certify as to their accuracy.

9. CORNER MARKERS: iron pipe shall be set at all corners, angle points and points of curve for each lot prior to plot recordation.

10. STREET LIGHTING: not required

REQUIRED UTILITY IMPROVEMENTS✷

1. SEWAGE DISPOSAL: Public system per adopted standard details and specifications or septic systems in accordance with Section 11-5-6.
2. WATER SUPPLY: Public system per adopted standard details and specifications or shared private wells in accordance with Section 11-5-6.C.
3. EASEMENTS: All subdivisions that may be approved without sewer or water in accordance with Section 11-5-6.B and C., of this Code shall provide necessary utility easements as determined by the Town across the property to accommodate future development as it may occur on adjacent or nearby parcels.
4. STORM DRAINAGE:
   a. Surface collection system discharging into dedicated surface drainage ways per adopted standards and specifications.
   b. All existing streets within or abutting the plat shall be drained to acceptable outlet; all drains shall be within dedicated public easements.

Rev. 6/96
✷Rev. 6/02-Ord. 882

Section 11-5-9 Agreement to Install Improvements

A. Upon approval of the Final Plat by the Council, the subdivider shall execute and file an agreement between himself and the Town specifying the period within which he or his agent or contractor will complete all required improvements to the satisfaction of the Town Engineer. The agreement shall provide for inspection of all improvements by the Town Engineer and payment by the subdivider of the actual cost of such inspections. The subdivider shall deposit with the Town an amount of money equal to the estimated actual cost of making the required inspections. If the actual cost of making the inspections is less than the amount deposited by the subdivider, the balance shall be returned to the subdivider. If the actual cost of making the inspections is greater than the estimated cost of making the inspections, the subdivider agrees to pay to the Town the balance of the actual cost of making the inspections.

B. The agreement may also provide for construction of improvements and units and for an extension of time under specified conditions; provided the subdivider shall post a performance bond, assurance or other security as may be appropriate and necessary to insure installation of the required street, sewer, electric and water utility; drainage; street lighting; flood control and improvements meeting established minimum standards of design and construction.

Section 11-5-10 Final Acceptance and Dedication of Street, Utility and Public Improvements

Ord. 1028/2-09

A. All street, utility and public improvements intended to be dedicated to the Town for maintenance and operation shall not be considered complete until the Town Council, upon recommendation of the Town Engineer and Public Works Director, accepts such dedications and improvements into the Town's street and utility system. If accepted, the Town Clerk shall then record such dedications and improvements in the Maricopa County Recorder's office. Engineering plans for required improvements must be submitted within ninety (90) days after approval of the Final Plat, pursuant to Section 11-5-7.

B. A one (1) year warranty period exists from the date of final acceptance, during which the developer/owner is responsible for making any repairs or replacement at its expense. A maintenance bond in the amount of ten percent (10%) of the cost of the street, utility and public improvements shall be submitted by the developer/contractor prior to issuance of the final acceptance letter. Upon completion of the warranty period, assuming there is no outstanding warranty claim, the maintenance bond will be released.

ARTICLE 11-6 GRADING AND DRAINAGE REQUIREMENTS ❀

Section 11-6-1 Purpose
Section 11-6-2 General
Section 11-6-3 Permits Required and Exceptions
Section 11-6-4 Grading Permit Limitations and Conditions
Section 11-6-5 Engineering Review Fees
Section 11-6-6 Discharge Report
Section 11-6-7 Construction Details
Section 11-6-8 Inspection and Supervision
Section 11-6-9 Design Standards
Section 11-6-10 Responsibility of Permittee
Section 11-6-11 Modification of Approved Plans
Section 11-6-12 Completion of Work

Section 11-6-1 Purpose

The purposes of this Article are:

A. To provide for the public health, safety and general welfare of the residents of the Town by setting forth procedures to obtain permits for grading and drainage in subdivisions in the Town.

B. To protect the environment by regulating excavation and grading on property.

❀ Ord.1046/9-09

C. To reduce aggradations of waterways and siltation of flood control structures while preserving and enhancing the natural environment including, but not limited to, the natural landforms and vegetation in the Town.

D. To minimize loss of life and property through the careful regulation of development.

E. To protect existing watersheds, natural waterways, and minimize soil erosion.

F. To ensure that all new development is free from adverse drainage conditions.

G. To encourage the preservation of the existing landscape by maximum retention of natural topographic features and to minimize the scarring of hillside construction

Section 11-6-2. General

A. Scope and Application

1. All excavation and grading in subdivisions in the Town shall be performed in accordance with the provisions of this Article, provided however that nothing in this Article shall prevent the enforcement of other laws which prescribe more restrictive limitations, nor shall the provisions of this Article waive any limitations imposed by other statutes or ordinances.

2. This Article shall be used with the Drainage Design Manuals for Maricopa County - Hydrology, Hydraulics and Erosion Control; and the Yavapai County Drainage Criteria Manual. The objective of the Drainage Design Manuals for Maricopa and Yavapai County is to provide technical guidance for storm drainage facilities. In case of conflict, the requirements of this Article shall govern.

3. A grading permit shall be obtained prior to the issuance of a building permit for all physical improvements associated with single-phased projects or for the first phase of multi-phased projects issued by the Town in accordance with applicable Town standards. Complete development and site plan approval on proposed projects in their entirety is required. The Town Engineer or Flood Plain Manager will make the determination that the grading will not adversely impact the natural conveyance of the drainage system or adjoining property if no application is required.

B. Permit Requirements

Except as provided in Section 11-6-3, Subsection C Exceptions, no person shall commence grading, excavations or fills without first obtaining a grading permit from the Community Development Department/Planning and Building Department.

1. Plans and Specifications:

Each application for a grading permit shall be accompanied by two (2) sets of plans and specifications prepared and signed by an Arizona Registered Civil Engineer and shall include supporting data consisting of a soil engineering report prepared and signed by an Arizona Registered Civil Engineer.

2. Information on Plans and Specifications:

Plans shall be drawn to scale and supplemented with a bar-graph to preclude changes via enlargements or reductions upon substantial paper or Mylar, and stored on computer diskettes as specified by the Town. Plans shall be of sufficient clarity to indicate the nature and extent of work proposed and show in detail that it will conform to the provisions of this Article and all relevant laws, codes, rules and regulations. The first sheet of each set of plans shall give the location of the work, the name and address of the property owner, and the person by whom they were prepared. The Town shall not accept plans that are excessively smudged or poorly printed or drawn. The plans shall include, at a minimum, the following information:

a. Specific location, assessor tax parcel number(s) and zoning district classification.

b. Property limits and two-foot contour intervals of existing ground or as determined by the Town Engineer; and details of terrain and area drainage with a north indicating arrow.

c. Limiting dimensions, elevations, slopes and finish contours or elevations to be achieved by the grading and proposed drainage channels and related construction.

d. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drainage system.

e. Location and floor elevations of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent property owners, which are within fifty feet (50') of the property or which may be affected by the proposed grading operation.

f. Location and specification of temporary traffic and parking surfaces complying with the dust control permit of the county.

g. A site plan in map view with perpendicular cross sections reflecting, center line of street, gutter, curb, lot, pad, finished floor, basement, garage, fencing and drainage swales and/or openings in fence.

3. Soil Engineering Report:
The soil engineering report, when required by Section 11-6-2, Subsection B shall include data regarding the: 1. Nature, distribution and strength of existing soil and rock; 2. Geologic factors affecting stability and safety; and 3. Conclusions and recommendations for grading requirements and design criteria for corrective measures of weak and/or unstable conditions including buttress fills when necessary, opinions and recommendations, covering adequacy of sites to be developed by the proposed grading, including stability of slopes.

4. Storm Drainage Precautions:
All applications for a grading permit shall include a safety plan to provide adequate erosion control as per the National Pollution Discharge Elimination System (NPDES) program and/or drainage devices, debris basins or other safety devices to protect the life, limb, health, property and welfare; and private and public property of others from damage of any kind. No permit shall issue without Town approval of a Storm Drainage Safety plan.

5. Modification of Proposed Work:
The Town may require grading operations and project designs to be modified if weather-generated problems occur that were not considered at the time the grading permit was issued.

6. Storm Drainage Requirements:
All development within subdivisions in the Town shall provide engineered storm drainage improvements necessary to insure that the development is safe from inundation from the design storm, and that adjoining properties are not adversely impacted by the proposed development. Peak runoff flow from a 100-year, 2-hour storm shall not exceed pre-development runoff. Any site that ultimately drains to a flood control structure that is currently owned and operated by the Flood Control District of Maricopa County shall not have the peak flow and total volume of runoff exceed pre-development conditions.

C. Minor Modifications

The Town Engineer may grant minor modifications to the provisions of this Article and amendments relating thereto when there exists an unnecessary hardship substantially limiting the preservation and enjoyment of property rights and resulting from a literal interpretation of this Article and amendments relating thereto. Minor modifications shall not be authorized unless it is found that:

1. Special circumstances or conditions apply to the property; and

2. Authorizing of the minor modification is necessary for the preservation and enjoyment of substantial property rights; and

3. Authorizing of the minor modification will not be materially detrimental to the persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general; and

4. Authorizing the minor modification will not have a detrimental effect on any Flood Control system or structure as established by the Town of Wickenburg, Maricopa County or Yavapai County; and

5. Granting of the minor modification will be in harmony with the purposes sought to be attained by this Article and amendments relating thereto.

If in the opinion of the Town Engineer, the modification is not justified, the applicant may appeal the decision to the Board of Adjustment. In order to reverse the determination by the Town Engineer, the Board shall make a finding that includes 1 through 5 above and includes the technical and factual detail upon which the reversal is based.

D. Hazardous Conditions

Whenever the Town determines that any existing excavation, embankment or fill has become a hazard to life and limb, endangers property, or adversely affects the safety, use or stability of a public way or drainageway, such condition shall be deemed a nuisance and the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the Town shall, within the period specified, therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this Article.

If the person or agent in control of the property fails to repair or eliminate such nuisance within the time specified in the notice from the Town, the Town is authorized to abate such nuisance by following the procedures set forth in Article 10-4 of the Town Code.

Section 11-6-3. <u>Permits Required and Exceptions</u>

A. Drainage

1. Any alterations to existing natural drainage systems shall meet the requirements of the <u>Drainage Design Manuals for Maricopa County</u> - Hydrology, Hydraulics and Erosion Control; and the <u>Yavapai County Drainage Criteria Manual</u>. The Town may determine if it is necessary to reinforce the stability of such drainage if in the opinion of the Town Engineer or Building Official there are signs of erosion or where the proposed development may add water runoff greater than current levels.

2. Except in cases of bedrock-bottomed drainage, the slope of a new or relocated drainageway shall be a minimum of one (1) foot in one hundred (100) feet (1 percent slope). Side slopes of new or relocated drainage shall not exceed a ratio of three (3) horizontal to one (1) vertical.

3. New drainage or relocated drainage shall be designed with slope rounding to blend with natural contours. New or relocated drainage shall be designed to blend with the natural terrain. In most cases, this shall mean a curvilinear watercourse. New or relocated drainage shall be designed to vary in width or depth similar to natural drainages.

B. Filling and Excavation

1. No person shall do any grading, filling, excavating, cutting or other site earthwork without first having obtained a grading permit. To obtain a grading permit, the applicant shall submit plans; drawings; engineering studies; supporting data, including the quantity of cut and the quantity of fill; and such other information as required by the Town. The information and documentation shall clearly indicate the extent and nature of the work proposed, and the location of any temporary construction envelope fences required to be erected. All submitted documentation must meet Town requirements and be approved by Town staff before a permit is issued by the Town, (except where a building permit may be issued and a grading permit is not required).

2. A grading permit issued for grading, filling, excavating, cutting or other site earthwork shall comply with the requirements of this Article.

3. Upon issuance of a grading permit, all earthwork shall be completed within six (6) months or diligently pursued. Two additional extensions of six (6) months may be applied for with the permission of the Zoning Administrator, as per Section 11-6-4, Subsection C.

C. Exceptions

1. The following activities may be conducted without formal issuance of a grading permit:

a. A fill less than two (2) feet in depth and placed on natural terrain with a slope flatter than five (5) feet horizontal to one (1) foot vertical and not intended to support structures and which, in either case, shall not obstruct a drainage course.

b. Grading by a Public Utility Company in private easements that do not obstruct a natural water course.

c. Sanitary landfills and refuse disposal areas which are regulated by the Maricopa and Yavapai County Health Departments.

d. Excavations performed in drilling water supply wells and septic systems.

e. An excavation which does not exceed fifty (50) cubic yards, does not obstruct a drainage course, and:

1. Is less than two (2) feet in depth, or

2. Which does not create a cut slope greater than five (5) feet in height and steeper than three (3) horizontal to one (1) vertical.

2. Unless otherwise expressly provided herein, a grading permit shall not be required for the following:

a. Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or building or structure is discontinued for twelve months, or is destroyed to the extent of fifty percent of its value, as determined by a competent appraiser, any further use shall comply with this Article.

b. Reasonable repair or alteration of property for the purposes for which the property was legally used on (date of adoption) except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential shall be either flood proofed or elevated to or above the regulatory flood elevation.

c. Reasonable repair of structures constructed with the written authorization required by A.R.S. §48-3613.

d. Facilities constructed or installed pursuant to a certificate of environmental compatibility issued pursuant to A.R.S. Title 40, Chapter 2, Article 6.2 (Power Plant and Transmission Line Siting Committee).

3. The Town may issue a building permit without a grading permit for additions to, or enlarging an existing building or for a new single family residence in a drainageway or floodplain in a subdivision recorded prior to November 1, 1977, provided the building floor elevation is set not less than fourteen inches (14") above the outfall of the lot and the minimum height necessary for floodplain management, provided such permit has been approved by the Town.

a. Written authorization shall not be required, nor shall the Town prohibit:

(1) The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, public roads and any streets intersecting a watercourse.

(2) Any flood control district, county, town or other political subdivision from exercising powers granted to it under A.R.S. Title 48, Chapter 21 (Flood Control Districts).

(3) The construction of streams, waterways, lakes and other auxiliary facilities in conjunction with the development of public parks and recreation facilities by a federal or state public agency or a political subdivision of the State of Arizona.

b. Before any construction authorized by this subsection may begin, construction plans shall be approved by the Town Engineer and as appropriate the Maricopa and Yavapai County Flood Control Districts. These exceptions do not preclude any person and/or agency from liability if their actions increase flood hazards to any other person or property.

c. Neither the issuance of a building permit under the provisions of this Article, nor compliance with the provisions hereof, or with any conditions imposed in the building permit, shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the Town for damage to other persons or property.

Section 11-6-4 **<u>Grading Permit Limitations and Conditions</u>**

A. Authorization

1. The issuance of a grading permit shall constitute authorization to do only that work, which is described or illustrated on the application for the permit or on the site, plans and specifications approved by the Town. The Town may revoke a permit if the site is not being developed in compliance with the approved site plan.

2. The issuance of a permit or the approval of drawings and specifications shall not be construed to be a permit for, nor the approval of, any violation of, or deviation from the provisions of this Article or any other ordinance, code, law, rule or regulation. A permit shall be considered invalid if, a violation of this Article or deviation there from, has occurred upon completion of work. When such violation occurs, the permit shall be deemed to be canceled and the ground shall be restored to the condition it was in prior to the start of the grading work.

3. The issuance of a permit, based upon drawings and specifications, shall not prevent the Town from thereafter requiring the correction of errors in said drawings and specifications or from stopping unlawful construction operations being carried on hereunder.

4. It shall be required that all work performed within public right-of-way shall be licensed, insured and a bonded Contractor.

B. Jurisdiction of Other Agencies

Permits issued under the requirements of this Article shall not relieve the owner of the responsibility for securing required permits for work to be done that is regulated by other ordinances, departments or divisions of the Town or other governing agencies. A Grading Permit shall not be issued until all required permits are obtained from the Arizona Department of Environmental Quality (ADEQ), the County Health Departments (CHD), the County Flood Control District (CFCD), potential 404 permit and other agencies.

C. Time Limits

The permittee shall fully perform and complete all of the work required to be done pursuant to the grading permit within the time limit specified. If no time limit is specified, the permittee shall complete the work within one hundred eighty (180) days after the date of issuance of the grading permit. If the permittee is unable to complete the work within the specified time, a letter shall be submitted to the Zoning Administrator prior to the expiration of the permit requesting an extension of time and setting forth the reasons for the requested extension. If, in the opinion of the Zoning Administrator, such an extension is warranted, up to an additional 6 months can be granted for the completion of the work. The permittee shall only be allowed two (2) extensions or 6 months each.

D. Conditions of Approval

In granting any permit under this Article, the Town may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but shall not be limited to:

1. Compliance with dust control requirements of the county and the State Department of Environmental Quality (ADEQ). Vehicles carrying loads should have them covered with a secure tarpaulin, netting or other covering to prevent the load from spilling or blowing from the vehicle.

2. Requirements for fencing of excavations or fills, which would otherwise be hazardous.

3. Improvement of any existing site condition to bring it up to standards of this chapter.

4. A landscaping plan shall be required. The landscaping plan shall consist of the preservation of mature native vegetation or the relocation of new native vegetation, all of which shall be placed along the edges of the proposed rights-of-ways or streets as part of an approved streetscape plan.

5. Requirement for submittal of a Storm Water Pollution Prevention Plan (SWPPP)

E. Bonds

1. Requirements:

   A permit shall not be issued for more than ten thousand cubic yards (10,000 C.Y.) of grading unless the permittee shall first post with the Town a cash bond or a bond executed by the owner and a corporate surety authorized to do business in Arizona as a surety in an amount sufficient to cover the cost of the project, including corrective work necessary to remove and eliminate geological hazards, all as determined by the Developer.

2. Conditions:

   Every bond shall include the conditions that the permittee shall:

   a. Comply with all of the provisions of this Article, applicable laws and ordinances;

   b. Comply with all of the terms and conditions of the permit for excavation or fill to the satisfaction of the Town Engineer.

c. Complete all of the work contemplated under the permit within the time limit specified in the permit or in Section 2.B.3. If the Town extends the time specified in the permit, no such extension shall release the surety upon the bond.

3. Failure to Complete Work:
The term of each bond shall begin upon the date of filing and shall remain in effect until the completion of the work to the satisfaction of the Town. At the beginning of the project the Contractor shall estimate the cost of the bond. In the event of failure to complete the work and failure to comply with all of the conditions and terms of the permit, the Town may order the work required by the permit to be completed to his satisfaction. The surety executing such bond or deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the governing agency in causing any and all such required work to be done. In the case of a cash deposit, said deposit or any unused portion thereof shall be refunded to the permittee. In the event where development of the property does not immediately commence, a maintenance bond in the amount of 10 percent of the value of the grading shall be provided to ensure that the graded property is properly maintained and does not become a nuisance. In the event a bond or approved assurance for the proposed work is provided through some other ordinance or stipulation, a second assurance to fulfill this Article shall not be required.

4. Assurance of Construction Through Loan Commitment:
In lieu of providing assurance of construction in the manner provided above in this section, the permittee may provide assurance of construction for grading improvements by delivering to the Town, prior to the issuance of a permit, an agreement in a form approved by the Town Attorney between an approved lending institution and the permittee, stating that funds sufficient to cover the entire cost of performing the proposed work, including engineering and inspection costs, in an amount approved by the Town, have been deposited with such approved lending institution. Such agreement shall provide that such funds in the stated amount are specifically allocated and will be used by the permittee, or on his behalf, only for the purpose of performing the grading improvements. The Town shall be the beneficiary of such agreement or the permittee's rights thereunder shall be assigned to the Town and shall approve each disbursement of any such funds. The agreement may also contain terms, conditions and provisions normally included by such lending institutions in loan commitments for construction funds, or as may be necessary to comply with statutes, codes and rules applicable to such lending institutions.

F. Liability
Neither the issuance of a permit under the provisions of this Article nor the compliance with the provisions hereof, or with any conditions imposed in the permit issued hereunder, shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the Town for damage to other persons or property.

G. Revocation
If the Town determines that the work authorized under any permit issued under this Article is not proceeding in accordance with the approved application, or is proceeding in violation of this Article or any other ordinance of the Town, or if it determines that there has been any false statement or misrepresentation as to a material fact in the application or payment for said permit or plans on which the permit was based, the Town shall notify the person obtaining the permit and the owner that such work fails to conform to said permit, or that the permit was obtained by false representations and that such failure in obtaining the permit be corrected without delay. If the owner or person obtaining the permit fails or refuses to make such correction within the time specified in said notice, the Town shall issue a stop work order. Such notice shall be in writing and signed by the Town. It is unlawful for any person to proceed with any part of such work after such notice is served. When necessary, law enforcement personnel shall be employed to insure compliance.

H. Streets and Driveways

All grading for streets and driveways shall be done in accordance with the recommendations and guidelines in accordance with MAG Standards and the approved grading plans.

I. Denial of Permit

1. Geological or Flood Hazard:
If, in the opinion of the Town, the land area for which grading is proposed is subject to geological or flood hazard to the extent that the proposed corrective work will not eliminate or sufficiently reduce the hazard to human life or property, the grading permit and the building permits for habitable structures shall be denied.

2. Unlawful Grading:
The Town shall not issue a permit in any case where it finds that the work as proposed by the applicant will endanger any private property or result in the depositing of debris or soils on any public way or seriously interfere with any existing drainage course. However, if it can be shown to the satisfaction of the Town that the hazard would be essentially eliminated by the construction of retaining structures, buttress fills, drainage devices or by other means, the Town may issue the permit.

Section 11-6-5 <u>Engineering Review Fees</u>

Applicant shall pay all Engineering Review Fees for permit application review as set by the Town Council as per adopted resolution.

Section 11-6-6 <u>Drainage Report</u>

A drainage report shall be submitted at the time of the preliminary plat review or when determined by the Town Engineer. The application will not be accepted and a preliminary plat review will not be scheduled without the drainage report. The report shall be prepared by an Arizona Registered Civil Engineer. The following information shall be covered in the report:

A. Hydrology

1. Study Requirements:
A hydrology study shall be performed for each development in a subdivision within the Town. The study shall define the overall and sub-drainage areas. It shall also determine appropriate hydrologic data for the following:

a. Off-Project Areas: The peak flows, time of concentration, and other hydrologic data, for each off-project drainage area tributary to the project shall be computed and submitted in summary form. Storm runoff exiting on property under development and flowing onto an Arizona Department of Transportation (ADOT) right-of-way, shall be subject to ADOT's review and approval process.

b. Project Sub-Basins: The project shall be divided into tributary sub-basins contributing to appropriate design points. The pertinent hydrologic data shall be computed for each and submitted in summary form.

2. Basis of Design:
The basis of design shall be the <u>Drainage Design Manuals for Maricopa County</u> - Hydrology, Hydraulics and Erosion Control or if in Yavapai County the <u>Yavapai County Drainage Criteria Manual</u>, as prepared and published by the Flood Control District of Maricopa County and Yavapai County Flood Control District, respectively; and the Arizona Department of Water Resources (ADWR).

3. Floodplain Administration:
The Engineer shall comply with the requirements of the Town of Wickenburg, Federal Emergency Management Agency (FEMA), U.S. Environmental Protection Agency (EPA) and Army Corps of Engineers (COE) requirements. CLOMR, LOMR, COE 404 and EPA 401 applications and/or permits may be required by these other agencies.

B. Hydraulics

1. Basis of Design:
The basis of design shall be the Drainage Design Manuals for Maricopa County – Hydrology, Hydraulics and Erosion Control and if in Yavapai County the Yavapai County Drainage Criteria Manual. The Design Engineer is responsible for evaluating the specific design conditions to determine the appropriate design criteria in evaluating the hydraulic design and anticipated operation and maintenance conditions. The following provisions shall not relieve the Design Engineer, Consultant, Developer or Owner of the responsibility to apply generally accepted design practices and professional conduct.

2. Street Drainage:
The basis of design for local streets shall be the ten-year storm being contained within the pavement section with a maximum depth of six inches (6") at the gutter or where there is no gutter, then it shall be measured at the crown line.

a. Streets shall be designed to carry the following minimum flows:

1. Major and minor arterial streets are to carry a ten-year (10-yr) flow between the curbs and maintain a twelve-foot (12') dry lane in each direction; and carry the one hundred year (100-yr) flow within the right-of-way with a maximum depth of six inches (6") over the crown of the street, for emergency vehicles and evacuation purposes.

2. Collectors and local streets are to carry ten-year (10-yr) flows between the curbs, the fifty-year (50-yr) flows within the right-of-way.

3. Underground storm drains are required when the above street capacity or maximum depth is exceeded.

4. Streets shall have a crowned section for drainage. Exceptions may be submitted with specific written request to the Town Engineer and written acknowledgment by the Town.

b. In general, dip crossing of open channels shall be avoided.

c. All storm drains and channels shall be constructed in public rights-of-way or dedicated easements. The minimum width of the right-of-way or easement shall be adequate to allow a minimum continuous twelve foot (12') wide maintenance road, but in no case less than ten feet (10') wide.

d. Where access to a new development requires crossing of a channel or wash, an all weather crossing must be provided. Additional all weather crossings may be required by the Town.

e. Depth of flow within drainage easements shall not exceed twelve inches (12"), excluding the area of the channel structure.

3. Drainage Between Lots:
   a. Routing of drainageways between lots or buildings is discouraged and will be allowed only upon written request from the developer and written approval of the Town and are recommended to be buried, culvert grated or ditched.

   b. The ends of the right-of-way or easement shall be treated in such a manner as to prevent non-maintenance vehicular access without diminishing the hydraulic capacity of the channel. Removable bollards, railings or barricades or gates shall be installed.

   c. A minimum of 25% of the up-stream opening shall be assumed to be clogged with debris, when considering design capacity.

   d. Fencing or railing may be required by the Town Engineer if an open channel is used.

   e. Headwalls, wing walls, retaining walls, grated and trash racks are required in the design of channels and storm drains.

4. Retention/Detention Facilities & Areas:
   a. The design engineer shall determine and present calculations on each retention/detention facility required for their project. The retention/detention volume for the one hundred year (100-yr), two-hour (2 hr) storm, shall be provided. Basin volume which exceeds the contribution from the sub-area it serves will not be considered as volume provided.

   b. A Drainage easement shall be recorded over each retention/detention area within the project for both "public" and "private" basins.

   c. All retention/detention facilities shall be sized to retain 100% of the required volume of the one hundred year, two hour storm falling over the entire project (gross area including streets) required to meet post-development criteria.

   d. Freeboard – there shall be a one-foot freeboard from the basin emergency overflow level to the lowest building elevation. This overflow level is the basin design level above the outfall elevation designed for the one-hundred year (100-yr) event. This design would allow ponding to occur in excess of the design level should outlet clogging or extreme/successive flow events occur. The outfall elevation shall be lower than the emergency overflow level.

   e. The outfall elevation and overflow elevation shall be shown on the plans.

   f. Retention/Detention facilities located within a drainageway, channel way, or floodway are prohibited.

   g. Grading
      1. Depths:
         The overall depth shall not exceed three feet (3') without authorization of the Town. If granted, the side slopes shall be flattened. At the Town's option, the basin may be fenced to allow steeper side slopes or greater depths. In no case shall the depth exceed one foot (1') without a positive means of disposing of accumulated runoff.

2. Side Slopes and Bottom:
   (a). Side Slopes:
   i. Side slopes adjacent to public right-of-way, or when there is pedestrian type access to that portion of the basin, shall have a side slope of 6:1 or flatter. There shall be at least two feet of level ground between the back of the sidewalk and the beginning of the side slope grading.

   ii. Side slopes adjacent to walls, fences, hedges, etc. (i.e., no or limited pedestrian type access in that area) may have side slopes up to 4:1 adjacent to public right-of-way or easement and 4:1 adjacent to private property. There shall be at least two feet of level ground adjacent from any wall or vertical obstruction to the top of the side slope grading.

   (b). Bottom: The bottom of all basins shall be sloped towards the discharge points. The minimum bottom slope shall be 0.1%.

h. Parking Lots – Retention/Detention of runoff in parking lots of developments is allowed subject to the following guidelines:
   1. No storage volume of a ten-year – 2 hour storm or less may be retained/detained on a parking lot. The balance shall be retained/detained in landscaped areas and/or retention/detention facilities.

   2. Parking spaces shall provide one dry access with no point of the space to exceed 0.50 feet deep.

   3. Handicapped parking and loading spaces shall be free from ponding.

i. Disposal/Discharge:
   1. A bleed-off discharge to an existing storm drain or drainage channel of sufficient capacity to convey the anticipated flows from the tributary drainage areas after the storm.

   2. Shallow pit percolation tests shall be performed in retention areas to determine natural percolation. The test shall be performed at the same depth as the bottom of the proposed basin, or 3 feet below the natural ground surface, whichever is lower. Tests shall be submitted prior to approval of the drainage plans. All retained or detained runoff shall be dissipated within 36 hours following each storm.

Section 11-6-7 **<u>Construction Details</u>**

All development shall be constructed in compliance with the Maricopa Association of Governments ("MAG") Standard Details and Specifications as modified by the Town and in accordance with all federal, state and local laws regulating such development.

Section 11-6-8 **<u>Inspection and Supervision</u>**

All grading operations for which a grading permit is required shall be subject to inspection by the Town. When required by the Town, special inspection of grading operations and special testing shall be performed in accordance with the provisions of this Section.

A. Standard Grading Requirements

The Town may inspect the work and may require adequate inspection and compaction control by a certified soils testing agency. The testing agency responsibility shall include, but need not be limited to, certification concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills. When the Town has cause to believe that geologic factors may be involved, the grading operation shall be required to conform to engineered grading requirements.

B. Notification of Non-Compliance

Work, as described under this Article, is performed at a sub-standard level or not in conformance to the guidelines and stipulations of this ordinance, the Civil Engineer and/or its designated and qualified designee shall stop order all work until corrective measures are taken. Recommendations for corrective measures, if deemed necessary by the Town, shall be submitted. Recommendations for corrective measures, if deemed necessary by the Town, shall be submitted.

C. Transfer of Responsibility by Permittee

If the Civil Engineer or the testing agency of record listed in the grading permit are changed or replaced during the course of the work, the permittee is responsible for the replacement of a registered or certified professional to supervise the project through completion and notification shall be given to the Town.

Section 11-6-9 **<u>Design Standards</u>**

A. Cuts

1. General: On all lots or parcels, development, design and construction techniques should blend scale, form and visual character into the natural land forms, and minimize exposed scars. Cuts shall conform to the provisions of this Section.

2. Substructure Protection:
The Permittee shall determine any utilities or other substructures that exist in the location to be excavated no less than two (2) working days prior to the commencement of any work by calling the Blue Stake Center. Excavation shall be undertaken with sufficient care not to interrupt the utility service function or to disturb the utility or other substructure physical supports.

3. Drainage Design and Treatment:
Any alterations to existing natural drainage systems shall meet requirements pursuant to Section 5.B.

4. Safety:
Cuts shall be adequately fenced to preclude unauthorized access, as determined by the Town.

5. Natural Contours:
All buildings, structures, driveways and roads shall, to the greatest extent practicable, utilize the natural contours of the land so as to minimize disturbed area.

6. Blending:
At the intersections of cuts and fills, slopes shall be adjusted and warped to flow into each other or into the natural ground surfaces without noticeable break.

7. Cut Slopes:
Concrete and masonry decorative walls, and retaining walls used in association with cut slopes shall be color treated or veneered to blend in with the surrounding natural colors of the native rock and soils at the site. The surfaces shall be rough textured with heavy shadow patterns.

8. Driveways:
Where justified by topographic conditions, the maximum slope of a driveway may exceed fifteen percent (15%), provided that minimum standards for break overs are maintained as determined and applied by the Town. However, the Wickenburg Fire Department has indicated that for fire protection services, driveways exceeding seventy-five feet (75') in length with a grade of eight percent (8%) or greater, or any driveway with a grade in excess of twelve percent (12%) do not constitute reasonable access for fire apparatus and therefore, in such cases, the Town is relieved of any and all liability.

B. Fills

1. General:
Development, design and construction techniques on all lots or parcels shall blend with the natural land forms, minimizing exposed scars. Fills shall conform to the provisions of this Section. In the absence of an approved Soil Engineering Report, these provisions may be waived by the Town for minor fills not intended to support structures.

2. Fill Location:
Fill slopes shall not be constructed on natural slopes steeper than two (2) to one (1).

3. Preparation Of Ground:
   a. The ground surface shall be cleared and grubbed to receive fill by removing vegetation, roots one and one-half (1-1/2) inches in diameter and larger, non-complying fill, topsoil and other unsuitable materials; by scarifying to provide a bond with the new fill and, where the slope is steeper than five (5) to one (1) and the height is greater than five (5) feet, by benching into sound bedrock or other competent material. This information should be specified in the Soil Engineering Report.

   b. The bench under the toe of a fill, on a slope steeper than five (5) to one (1), shall be no less than ten (10) feet wide. The area beyond the toe of fill shall be sloped for sheet overflow, or a paved drain shall be provided.

   c. When fill is to be placed over a cut, the bench under the toe of fill shall be no less than ten (10) feet wide. The cut shall be made before placing the fill and accepted as a suitable foundation for the fill by a Soil Engineer.

4. Compaction:
All fills shall be compacted to a minimum of ninety-five percent (95%) under, and within five (5) feet of structures, and within traffic areas. Compaction within existing or proposed right-of-way or streets shall be per MAG Specifications. For all other areas, compaction shall be to a minimum of ninety percent (90%) of maximum density as determined by MAG specifications.

5. Slope:
The slope of fill surfaces shall be no steeper than is safe for the intended use. In no cases shall fill slopes be steeper than two (2) horizontal to one (1) vertical. Slopes shall be designed to blend with the natural terrain according to Section 2 of this Article.

6. Drainage And Terracing:
Drainage and terracing shall be provided. The area above fill slopes and the surfaces of terraces shall be graded as required by Section 5. – Inspection and Supervision of this Article.

7. Blending:
At the intersections of cuts and fills, slopes shall be adjusted and warped to flow into each other or into the natural ground surfaces without noticeable break.

8. Walls:
Concrete and masonry decorative walls, and retaining walls used in association with fill slopes shall be color treated or veneered to blend in with the surrounding natural colors of the native rock and soils at the site. The surfaces shall be rough textured with heavy shadow patterns. An Arizona Registered Civil Engineer shall design the retaining walls for fills greater than five feet (5').

9. Fill Material; Exceptions:
   a. Organic materials are not authorized. No rock or similar irreducible material with a maximum dimension greater than eight (8) inches in maximum dimension shall be buried or placed in fills.

   b. Rocks greater than eight (8) inches in maximum dimension may be authorized by the Town only when a Soil Engineer devises a proper method of placement, continuously inspects their placement and approves the fill stability. When so authorized, the following three (3) conditions shall be complied with:

      (1) Prior to issuance of the Grading Permit, potential rock disposal areas shall be delineated in the grading plan;
      (2) Rock sizes greater than eight (8) inches in maximum dimension shall be no less than ten (10) feet below grade as measured vertically;
      (3) Rocks shall be placed so as to fill all voids with fines.

C. Cut And Fill Slopes Greater Than 20%

All portions of a lot or parcel having a natural slope of 20% or greater within any horizontal distance with a five foot elevation change shall be subject to an engineering solution acceptable to the Town Engineer. Such slopes shall be identified on subdivision plats and this requirement noticed in the public. In all rural and residential zoning districts, the extent of grading on that portion of a lot which has a natural slope of 20% or greater within any horizontal distance with a five foot (5') elevation change shall be limited to a total area not to exceed 20% of the lot.

D. Drainage

1. Existing Drainage Facilities: No person shall alter any natural drainage course or existing drainage facility in such a way as to damage or endanger by flooding, erosion, or any other means, any public or private property or improvements.

2. Disposal. All drainage facilities shall be designed to carry surface waters to the nearest practical street storm drain or natural watercourse approved by the Town and/or any other jurisdictional Flood Control District as a safe place to deposit such waters.

3. Erosion Prevention. Adequate provision shall be made to prevent surface waters from damaging the face of an excavation or fill. All slopes shall be protected from surface water runoff from above by berms or swales.

4. Terrace Drains. All swales or ditches on drainage terraces shall be graded to provide suitable drainage and designed to prevent erosion and provide durability.

E. Re-Vegetation of Cut and Fill Slopes

Cut and fill slopes shall be seeded or otherwise re-vegetated within one month of completion or as soon as the planting season allows as determined by the Town. Re-vegetation of cut slopes shall include a mix of plant types indigenous to the area and similar to surrounding plant life, with size and species to provide for variation in color, texture and mass. This may range from trees to low wildflower groundcovers. Irrigation and maintenance adequate for the survival of the plant species, as determined by the Town, shall be provided until mature enough to survive without programmed care by the legal owners of the cut slope. For cuts greater than 5,000 cubic yards, the re-vegetation plan shall be submitted by a Registered Landscape Architect or Engineer. In all cases the slope shall be finished and re-vegetated with natural rock and plant material in quantities consistent with the area and in a manner that substantially reduces the potential for erosion.

F. Setbacks

1. General:
Cut and fill slopes shall be setback from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

2. Top Of Cut Slope:
The top of cut slopes shall be made not nearer to a site boundary line than one fifth (1/5) of the vertical height of cut with a minimum of two feet (2') and a maximum of ten feet (10'). The setback may need to be increased for any required interceptor drains.

3. Top of Fill Slope:
The top of fill slope shall be made not nearer to the site boundary line than one-half the height of the slope with a minimum of two (2) feet and a maximum of twenty (20) feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, special precautions shall be incorporated into the work as the Town of Wickenburg deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include, but are not limited to:
   a. Additional setbacks
   b. Provision for retaining or slough walls
   c. Mechanical or chemical treatment of the fill slope surface to minimize erosion
   d. Provisions for the control of surface waters

4. Modification of Slope Location:
The Town may approve alternate setbacks. The Town may require an investigation and recommendation by a Civil Engineer to demonstrate that the intent of this Section has been satisfied.

G. Exceptions for Design Cuts and Fills

Improvements to existing streets or highways, or improvements to existing cut slopes which do not conform to this Article may be excepted. Any exception shall be authorized by the Town.

Section 11-6-10 Responsibility of Permittee

A. Compliance with Plans and Requirements

All permits issued hereunder shall be presumed to include the provision that the applicant, his agent, contractor or employees shall carry out the proposed work in accordance with the approved plans and specifications and in compliance with all the requirements of this Article.

B. Protection of Utilities

During the grading operations, the permittee shall be responsible for the prevention of damage to any street or drainage facilities or to any public utilities or services. This responsibility applies within the limits of grading and along any routes of travel of equipment.

C. Protection of Adjacent Property

The permittee is responsible for the prevention of damage to adjacent property, and no person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley or other public or private property prior to supporting and protecting such property from settling, cracking or other damage which might result. Restoration of adjacent property shall include re-vegetation, when necessary.

D. Surplus Material

All surplus excavated material shall be removed from the lot or parcel prior to final inspection by the Town.

Section 11-6-11 Modification of Approved Plans

No modification of the approved grading plans may be made without the approval of the Town. All necessary revisions to soils and geological reports shall be submitted with the revised plans.

Section 11-6-12 Completion of Work

A. Final Reports

Upon completion of the construction work, the Town may require the following reports, drawings and supplements thereto covering the following subjects:

1. An As-Graded grading plan prepared by the Civil Engineer, including original ground surface elevations, as-graded ground surface elevations, lot and parcel drainage patterns, and locations and elevations of all surface and subsurface drainage facilities. The Civil Engineer shall provide certification that the work was accomplished in accordance with the approved final grading plan.

2. As and when required by Section 11-6-2, Subsection B, a Soil Engineering Report shall include the locations and elevations of field density tests, summaries of field and laboratory tests, and other substantiating data and comments on any changes made during the engineering field grading and their effect made in the engineering investigative report. The Civil Engineer shall assemble this report or have assigned the task of completing this report through his designated and certified designee. The report shall contain a final description of the geology of the site, any new information disclosed during the grading, and the effect of these facts on the recommendations incorporated in the approved grading plan.

B. Notification of Completion

The permittee or his agent shall notify the Town when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices and all erosion control measures, have been completed and the final reports have been submitted and accepted by the Town.

ARTICLE 11-7 MODIFICATION

11-7-1 Extraordinary Conditions
11-7-2 Appeal and Hearing
11-7-3 Additional Requirements

Section 11-7-1 Extraordinary Conditions

Where there exists extraordinary conditions of topography, land ownership, adjacent development, or other similar circumstances not provided for in this Chapter, the Subdivision Committee may, upon request of the subdivider, recommend modification of the enforcement of this Chapter in such manner and to such extent as it deems appropriate to the public interest. Any such recommendation or modification of the provisions of this Chapter shall be clearly noted in the Subdivision Committee's report regarding both the Preliminary Plat and Final Plat.

Section 11-7-2 Appeal and Hearing

In the event that an appeal for modification of enforcement of this Chapter does not receive affirmative action by the Subdivision Committee, the subdivider may file such appeal with the Town Clerk and, upon hearing, the Council may make such modifications, as it deems proper. The Subdivision Committee shall be represented at such hearing and make known to the Council its recommendations and reasons for denial of the appeal.

Section 11-7-3 Additional Requirements

In modifying the standards or requirements set forth in this Chapter, as provided above, the Subdivision Committee, the Planning Agency and the Council may make such additional requirements as are deemed necessary to secure substantially the objectives of the standards or requirements so modified.

ARTICLE 11-8 LAND SPLITS

A. "Land Splits" means the division of improved or unimproved land the area of which is two and one-half (2½) acres or less into two (2) or three (3) tracts or parcels of land for the purpose of sale or lease.

B. Prior to the division of any land by a land split as defined in Subsection A of this Article, the person proposing such a land split shall submit to the Town Council a plat showing such land split. The plat shall indicate the reservation of all necessary street and utility easements for the tract or parcel created by such land split.

ARTICLE 11-9 LOT SPLITS

A. Of Record: Any lot, which has been surveyed, deeded and provided perfected access and recorded with the office of the Maricopa County Recorder prior to December 7, 1994, will be considered a legal lot of record.

B. Any lot, which is hereafter created, shall conform in all respects to the zoning ordinance, and as such applicable the subdivision regulations of the Town. Each lot shall be surveyed and filed with the Town. Lots, which are found to be in compliance with the applicable sections, will be issued a certificate of compliance and are thereby eligible to apply for a building permit.

PAGE 154 – 157 -- RESERVED FOR FUTURE USE

FLOOD CONTROL DISTRICT

OF

MARICOPA COUNTY, ARIZONA

TABLE OF CONTENTS

ARTICLE I. AUTHORITY, PURPOSE, SCOPE AND TITLE		3
101	Statement of Purpose	3
102	Scope	3
103	Title	3
ARTICLE II. RULES OF CONSTRUCTION AND INTERPRETATION		3
201	Rules of Construction	3
202	Rules of Interpretation	3
ARTICLE III. DEFINITIONS		3-4
ARTICLE IV. ADMINISTRATION		4
401	Drainage Administrator	5
402	Mandatory Duties	5
403	Discretionary Powers	5
404	Restriction on Regulation	5-6
ARTICLE V. DRAINAGE REVIEW BOARD, APPEALS & VARIANCES		6
501	Drainage Review Board	6
502	Appeals	6
503	Drainage Variance	6-7
ARTICLE VI. GENERAL PROVISIONS		7
601	Drainage Clearance	7
602	Drainage Report/Plan (Development)	7
603	Design Parameters	7-9
604	Drainage Report/Plan (Site)	9
ARTICLE VII. DRAINAGE REPORT/PLAN (MASTER)		9
701	Drainage Report/Plan (Master)	9-10
ARTICLE VIII. DEVELOPMENT DRAINAGE REPORT/PLAN (Residential)		10
801	Development Drainage Plan Report/Plan	10
ARTICLE IX. DEVELOPMENT DRAINAGE REPORT/PLAN (Commercial & Residential)		10
901	Development Drainage Report/Plan	10-11
ARTICLE X. DEVELOPMENT DRAINAGE REPORT/PLAN (Hillside District)		11
1001	Development Drainage Report/Plan	11
ARTICLE XI. AREA DRAINAGE MASTER STUDY		12
1101	Adoption	12
1102	Public Notification	12
1103	Minimum Standards	12
ARTICLE XII. COMPLIANCE, ENFORCEMENT & PENALTIES		12
1201	Deed Restrictions	12
1202	Performance Assurances	12
1203	Regulations Violation	12
1204	Civil Remedies	13
1205	Declaration of Public Nuisance	13
1206	Violation Removal	13
1207	Criminal Penalties	13
ARTICLE XIII. DEDICATIONS		13
1301	Dedications	13
ARTICLE XIV. WARNING & DISCLAIMER OF LIABILITY		13
ARTICLE XV. SEVERABILITY AND EFFECTIVE DATE		14
1501	Severability	14
1502	Effective Date	14

CHAPTER 11A DRAINAGE REGULATIONS (Ord. 925/9-04)

The Wickenburg Mayor and Common Council adopted the Maricopa County Drainage Regulations, dated 12/14/94 for the Town of Wickenburg, Arizona on August 2, 2004 through Ordinance Number 925; effective commencing on September 3, 2004.

ARTICLE I. AUTHORITY, PURPOSE, SCOPE AND TITLE.

Section 101. Statement of Purpose.

The purpose of this Regulation is to promote and protect the health, peace, safety, comfort, convenience and general welfare of the citizens of Wickenburg by regulating drainage of all land within the incorporated limits of the Town of Wickenburg, Maricopa County, Arizona.

Section 102. Scope.

This Regulation shall apply to all development of land and conditions, which may affect drainage systems and patterns.

Section 103. Title.

This Regulation may be cited as the Drainage Regulations for the Town of Wickenburg and shall be referred to herein as the Regulation.

ARTICLE II. RULES OF CONSTRUCTION AND INTERPRETATION.

Section 201. Rules of Construction.

When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural; words in the plural include the singular. Words or phrases not specifically defined in this Regulation shall be given the meaning they have in common usage. The word "shall" is mandatory and the word "may" is permissive.

Section 202. Rules of Interpretation.

1. This Regulation is remedial in nature and, therefore, shall be liberally construed to effectuate its purpose. The requirements set out herein shall be construed as minimum requirements.
2. Nothing contained in this Regulation shall be construed to limit or repeal other powers granted to the Town of Wickenburg. This Regulation shall not be construed to legalize existing conditions or uses, which are in violation of other statutes, ordinances or regulations. Should provisions of this Regulation conflict or overlap with other regulations, ordinances and statutes, the regulation, ordinance or statute, which imposes the more stringent requirement, or restriction shall prevail.

ARTICLE III. DEFINITIONS.

In this Regulation, unless the context requires otherwise, the following definitions of words shall be used:

1. Accessory building: A building or manufactured/mobile home which is subordinate to, and the use of which is incidental to, that of the principal building or use on the same lot.
2. Appeal: A request for review of the Drainage Administrator's interpretation or application of the provisions of this Regulation.
3. Area Drainage Master Study (ADMS): A Study to develop stormwater hydrology for a watershed, to define drainage systems, identify potential flood hazard areas, drainage problems and recommend solutions and standards for sound floodplain and stormwater management. The ADMS identifies alternative solutions to a given flooding or drainage problem. An Area Drainage Master Plan (ADMP) identifies the preferred alternative. An ADMP, unique to the subject watershed provides minimum criteria and standards (for flood control and drainage) for land use and development.
4. Building Site: The area extending laterally a minimum distance of ten feet (10') beyond the foundation or support of a building.
5. Design Flow: The peak flow and peak volume of rainfall resulting from the design storm generated within a defined area.
6. Design Storm: The 100-year rainfall event that produces the design flow.

7. Design Storm/Retention: The 100-year, two (2) hour rainfall event.
8. Development: Any man-made change to property, including but not limited to, buildings or other structures, mining, dredging, filling, grading, landscaping, paving, excavation or drilling operations.
9. Drainage: Runoff, which flows over land as a result of precipitation. This shall include sheet flow and flows, which may concentrate in local drainage systems with or without defined channels.
10. Drainage Administrator: The Flood Control District of the Town of Wickenburg through its In-House Town Engineer/Public Works Director.
11. Drainage Clearance: Requires the approval by the Drainage Administrator of a Grading and Drainage Plan to develop a site. This plan may be a Site Plan, or engineered Grading and Drainage Plan.
12. Drainage Clearance (Final): A document issued by the Town of Wickenburg when a final inspection has been completed which indicates that the site was developed in accordance with the approved plan.
13. Drainage Design Manual: Drainage Design Manual for Maricopa County: Volume I - Hydrology, Volume II -Hydraulics, and Volume III - Best Management Practices and Erosion Control.
14. Drainage Easement: A legal right or privilege to use an area defined and established to receive or convey runoff.
15. Drainage Report/Plan (Conceptual): An overview Drainage Plan providing a minimum of drainage information with order of magnitude value for peak flows and retention requirements. Requirements shall be determined by the topography and proposed use of the site.
16. Drainage Report/Plan (Area): A Drainage Plan based on a defined watershed, which may include more than one political jurisdiction.
17. Drainage Report/Plan (Master): A preliminary Drainage Plan encompassing all future phases or units within a development. A report/plan generally of greater detail and encompassing a smaller geographic area than a Drainage Report/Plan (Area).
18. Drainage Report/Plan (Development): A Drainage Plan, which may cover all, or a portion of a development. A report/plan generally of greater detail and encompassing a smaller area than a Drainage Report/Plan (Master).
19. Drainage Report/Plan (Site): A Drainage Plan for a single lot or the smallest increment of development. A report/plan generally of greater detail than a Drainage Report/Plan (Development).
20. Drainage System: A system of lakes, rivers, creeks, streams, washes, arroyos, channels, closed conduits, or other topographic features on, through, or over which stormwaters flow at least periodically.
21. Drainage Variance: A grant of relief from the requirements of this Regulation, which permits construction, or other uses of property in a manner that would otherwise be prohibited or restricted by this Regulation.
22. Erosion: The wearing away of the ground surface as a result of the movement of wind, water, ice and other geologic agents.
23. Hillside District: That area within the Town's/County's Hillside Development Overlay Zoning District.
24. Non-Livable Building: A building on a residential lot used solely for the parking of vehicles, workshop, the storage of equipment or material, the keeping of livestock and other similar uses but not designed, constructed or utilized for human habitation.
25. Off-Site Runoff: Runoff produced from precipitation which falls outside the limits of a development and which drains through a development or the site of proposed development.
26. On-Site Runoff: Runoff produced from precipitation, which falls within the limits of a development including easements and dedicated rights-of-way.
27. Person: An individual, developer or his agent, firm, partnership, association, corporation, municipality, or agent of the aforementioned groups, or its agencies or political subdivisions.
28. Rainfall Event: The amount of rain falling in a specified period of time.
29. Retention System: A system that retains runoff in a controlled manner through the use of storage facilities. Stored runoff is either evacuated by percolation or released to the downstream drainage system after the storm event.
30. Road or Roadway: That area, whether public or private, between right-of-way lines, dedicated, reserved or provided for roadway purposes and other uses not inconsistent therewith.
31. Special Flood Hazard Area: The area included within the delineated floodplains of the Town of Wickenburg, Maricopa County, as adopted by the Federal Emergency Management Agency.

ARTICLE IV. ADMINISTRATION.

This Article sets forth the duties and powers of the Drainage Administrator and the limitations on regulation.

CHAPTER 11A DRAINAGE REGULATIONS (Ord. 925/9-04)

Section 401. Drainage Administrator.

The Wickenburg Mayor and Common Council shall appoint the Drainage Administrator as being the In-House Town Engineer/Public Works Director through the Town Manager who shall enforce the provisions of this Regulation.

Section 402. Mandatory Duties.

The Drainage Administrator shall:

1. Review drainage reports and plans for all developments of land covered by this Regulation and approve such plans when the requirements of this Regulation are met.
2. Investigate violations and complaints of non-compliance with this Regulation.
3. Keep copies of all documents or other submissions made pursuant to the requirements of this Regulation.
4. Issue notices or orders necessary to enforce the provisions of this Regulation.
5. Upon determination that development of land subject to this Regulation has proceeded without drainage clearance, take action necessary to obtain compliance with this Regulation.

Section 403. Discretionary Powers.

The Drainage Administrator may:

1. Inspect properties for which approval of drainage and grading reports and plans has been requested.
2. Inspect properties in response to complaints and, if violations are found, require compliance with the provisions of this Regulation.
3. Upon determination that all reasonable means to gain voluntary compliance have been exhausted, a Notice of Non-Compliance or Disclaimer may be recorded with the Maricopa County Recorder in a manner so that it appears in the chain of Title of the affected parcel of land.
4. Issue notices of violation.
5. Require additional information necessary to make a determination concerning violations and compliance with the provisions of this Regulation.
6. Adopt drainage design standards, guidelines, administrative rules, procedures and policies to implement and effectuate the purposes of this Regulation.
7. Establish, collect and regulate fees for review and inspection of drainage. Fees will be waived for all Federal, State, County and Municipal governments that are developing in the incorporated areas of the Town of Wickenburg.
8. Require appropriate financial assurances for one or more of the following drainage infrastructure projects:
    a. Drainage control features which provide protection for the development, such as dams, levees, dikes and interceptor channels or canals;
    b. Common area retention systems or drainage way easements affecting two or more tracts or phases of development;
    c. Whenever the Drainage Administrator determines that construction of a development has been interrupted and a partially completed drainage system presents a flood hazard to adjacent property;
    d. When a project has more than one phase and the schedule of construction of all phases is longer than one year.

Section 404. Restriction on Regulation.

A) This Regulation shall not:

1. Prevent, restrict or otherwise regulate the use or occupation of land or improvements for railroad, mining, metallurgical, grazing or general agricultural purposes, if the tract concerned is five or more contiguous commercial acres. This restriction on regulation shall be construed to conform to the requirements of ARS §11-830 as written or as subsequently amended.
2. Require a property owner to submit plans for, install, or change a drainage system on property, which was already developed at the time this Regulation became effective.
3. Require submission of a drainage report and plan in connection with the repair or alteration of property as it was developed at the time this Regulation became effective so long as the effect of such repair or alteration upon drainage would not be substantial or constitute an increased hazard to that or other properties.

B) A nonconforming business use may expand if such expansion does not exceed one hundred percent (100%) of the area of the original business, unless the effect thereof upon drainage would constitute a hazard.

C) This Regulation shall not pertain to or otherwise regulate cities, towns or other incorporated municipalities, the State or its agencies or political subdivisions. This paragraph does not exempt school districts, private utilities, and private emergency or fire services from compliance with the provisions of this Regulation.

D) Compliance with or exemption from this Regulation does not relieve any person from liability if that person's actions cause flood damage to any other person or property.

ARTICLE V. DRAINAGE REVIEW BOARD, APPEALS AND VARIANCES

Section 501. Drainage Review Board.

Pursuant to the authority granted in ARS §11-251, the Wickenburg Mayor and Common Council has appointed itself as the Drainage Review Board which shall hear requests for variances to this Regulation and Appeals from interpretations made by the Drainage Administrator in accordance with the rules of this Section. The members of the Drainage Review Board shall serve without compensation except that their reasonable and necessary expenses incurred on Board business may be reimbursed.

1. The Drainage Review Board shall consist of the Mayor and Common Council of the Town of Wickenburg who shall have the power to administer oaths and take evidence.
2. The Drainage Review Board shall by proper notice fix the time and place of its meetings. The meetings shall be open to the public; minutes of its proceedings and records of its examinations and other official actions shall be kept and filed in the office of the Wickenburg Town Clerk as a public record.
3. The Drainage Review Board shall adopt rules of procedure consistent with the provisions of this Regulation for the conduct of Drainage Review Board business including establishment of a fee schedule, if not already established, to cover in part administrative costs incurred in the processing of appeals, drainage clearances, drainage variances, plans review and performance bonds. The fee schedule shall be approved and adopted by resolution and may be separately amended from time to time as deemed necessary.
4. Property shall be posted a minimum of fifteen (15) days prior to a public Drainage Review Board hearing date.
5. The Drainage Review Board may prescribe, in connection with the grant of any variance or appealed clearance, conditions determined necessary to fully carry out the provisions and intent of the Regulation.
6. If the Drainage Review Board has cause to believe, after approval of a variance, that any stipulations or conditions may have been violated, it may set a hearing for the purpose of determining whether to revoke the variance for such violation. The Drainage Review Board may revoke the variance upon finding a violation of the stipulations or conditions or it may grant a limited time to allow the violator to correct the violation in order to avoid revocation of the variance.

Section 502. Appeals.

1. Appeals of any decision of the Drainage Administrator to the Drainage Review Board shall be filed with the Drainage Administrator within thirty (30) days from the receipt of notice of the decision to be appealed and shall be in writing on a form provided by the Drainage Administrator. The Notice of Appeal shall clearly specify the grounds for said appeal.
2. During the pendency of an appeal, all matters regarding the proceeding shall be stayed unless the Drainage Administrator certifies to the Drainage Review Board that by reason of facts surrounding the appeal the stay would, in his opinion, cause imminent peril to life or property. In such cases the other matters shall not be stayed.
3. The Drainage Review Board shall fix a time for hearing the appeal and give notice to all interested parties and to the public as set forth herein. The Drainage Review Board shall hear and decide the appeal within a reasonable time allowing for the requisite fifteen (15) day property posting requirement.
4. Any person aggrieved by a decision of the Drainage Review Board may, within thirty (30) days, request reconsideration in writing or take legal action against the Town of Wickenburg through a legal Court of law.

Section 503. Drainage Variance.

Conditions for the issuance of a variance:

1. The Mayor and Common Council as the Drainage Review Board, or the Drainage Administrator as the case may be, shall hear and decide requests for variance from the requirements of the Regulation.

2. Before granting a variance, Mayor and Common Council as the Drainage Review Board, or the Drainage Administrator shall find that each of the following criteria are met:

    a. The grant will not result in an increase in the 100-year peak flow or discharge; and
    b. By reason of special physical circumstances, location or surroundings of the property, strict application of the Regulation would deprive the property of privileges enjoyed by similar property; and
    c. The variance would not constitute a grant of special privilege inconsistent with the limitations on similar property; and
    d. The variance request is the minimum necessary, considering the flood hazard, to afford relief; and
    e. There is a showing of good and sufficient cause; and
    f. Failure to grant the variance would result in exceptional hardship to the applicant; and
    g. Granting the variance will not result in additional threats to public safety, health, welfare, or extraordinary public expense, create a nuisance, the victimization of or fraud on the public and that the variance does not conflict with existing local laws or ordinances.

3. The Mayor and Council as the Drainage Review Board, or the Drainage Administrator may attach any such conditions or restrictions to the granting of a variance as it determines necessary to reduce or eliminate potential threats to public safety, health, welfare or to public or private property resulting from the granting of the variance. The applicant among other things may be required to post bonds, assurances or other security to guarantee compliance with the conditions and restrictions imposed.

ARTICLE VI. GENERAL PROVISIONS.

This Article sets forth the general requirements for Drainage Clearance, Drainage Report/Plan (Development), Design Parameters, and Drainage Report/Plan (Site).

Section 601. Drainage Clearance.

A drainage clearance shall be required for any development or substantial improvement, which may have an adverse effect on existing drainage. Unless substantial construction as approved by the Drainage Administrator has occurred within one hundred eighty (180) days of such approval, the drainage clearance may be declared null and void and removal may be ordered of any partially completed or minor improvements, which may adversely affect drainage as determined by the Drainage Administrator. Upon application, the Drainage Administrator may approve a renewal of an expired Drainage Clearance for an additional one hundred eighty (180) days. An exemption from requirements for Zoning Clearance, Building Permit, Health Department clearance or other permits does not constitute an exemption from this Regulation, except as set forth in ARS §11-830.

A Final Drainage Clearance must be requested prior to a final Certificate of Occupancy for permits issued to construct commercial, industrial, educational, institutional, and such dwelling units as condominiums and apartments. A floor/stemwall/foundation inspection approval is required prior to a request for a final building inspection for a single-family dwelling, additions thereto or accessory buildings. The owner (builder/developer) is in violation of this Regulation, for failure to correct any deficiencies noted at the time of the final drainage inspection. Final drainage inspection approval shall be obtained within ninety (90) days of the date of notice of such deficiencies or final Building Inspection, whichever is the longer period.

Section 602. Drainage Report/Plan (Development).

A Drainage Report/Plan shall be required for all commercial, industrial, and multiple-family residential developments and all subdivisions. A revised drainage report may be required for any undeveloped or partially developed portions of an approved plan when no development or improvements have occurred for two or more years. The report shall address existing drainage conditions as compared to drainage conditions at the time of plan approval. Based upon conclusions of the report, reasonable modifications to the approved plan may be required by the Drainage Administrator. Single-family residential development shall be governed by the provisions of Section 604 of the Regulation, which applies to individual lot ownership. All Drainage Reports/Plans shall be prepared and sealed by an Arizona Registered Professional Civil Engineer. This Section also applies to Conceptual Drainage Report/Plans.

Section 603. Design Parameters.

CHAPTER 11A DRAINAGE REGULATIONS (Ord. 925/9-04)

The entire drainage retention and runoff conveyance system shall be designed to eliminate or minimize stormwater runoff effects and convey the runoff through the development with minimum detrimental effects to the development or to any other property. No system shall be approved if the effect may cause an increase in the peak discharge, volume or velocity of runoff or change the point of entry of drainage onto other property during the runoff event. No system shall be approved that does not conform to Best Management Practice Standards in controlling erosion and reducing sediment load.

All development shall conform to the standards and criteria contained in the Drainage Design Manual.

1. Storm Frequency Criteria. The rainfall event, based upon the 100-year storm duration generating the peak discharge for the area contributing runoff to the development shall be used in designing the overall development drainage system.
2. Retention of Storm Drainage.
    a. The retention system shall be designed to receive and retain the volume generated from the two (2) hour, 100-year runoff event falling over the entire development site including all rights-of-way, excluding off-site flows.
    b. Drywell volume shall not be used as part of the retention volume.
    c. Onsite retention facilities may include natural depressions, man-made basins, depressed parking areas, or other methods, which do not result in, water being ponded longer than thirty-six (36) hours. No more than twenty-five percent (25%) of public parking shown on the plan shall be used for retention and the maximum depth of the retention facilities cannot exceed twelve inches (12") in public parking areas. Private parking areas shall not be used for runoff retention.
    d. Individual lot retention shall not be permitted in single-family residential developments with a lot size less than one (1) gross acre.
    e. Retention basins shall not be located within twenty-five feet (25') of septic system facilities.
    f. Utility lines and structures shall not be located within drainage facilities unless approved by the utility company of jurisdiction and Maricopa County Flood Control District.
    g. If reasonable alternatives are not available, detention in the Town right-of-way may be acceptable provided the Town of Wickenburg Public Works Department approves the design.
    h. A right-of-way or public utility easement shall not be designated for drainage or retention without prior written approval of the appropriate agency or affected utility.
    i. In any landscaping and maintenance agreement, provisions shall be made for an annual maintenance certification.
    j. Onsite drainage shall be either to the street or to a designated drainage easement/tract or approved drainage way with adequate outfall.
3. Stormwater Disposal. Unless otherwise approved by the Drainage Administrator, onsite runoff that has been retained shall be disposed of within thirty-six (36) hours either by percolation, drywells or draining into an approved drainage way. Flows from basins shall not exceed pre-development flows and shall be in the location and direction of the historic flows. If runoff is to be conveyed by an underground system, complete detailed plans shall be submitted.
4. Drywell Design.
    a. If drywells are to be utilized for stormwater disposal, certification shall be required indicating that the drywells meet the provisions of the Arizona Department of Environmental Quality.
    b. Drywells shall be used only for stormwater disposal and not for disposal or deposit of wastes or other contaminants.
    c. Proof of drywell registration with the Arizona State Department of Environmental Quality shall be required prior to approval of any plans or issuance of any drainage clearance.
    d. Certification that the drywell meets requirements of this regulation shall be submitted at the time of installation.
5. Road Design.
    a. To facilitate drainage the design of roadways in the system shall conform to the Drainage Design Manual and Maricopa County Department of Transportation requirements.
    b. Adequate drainage ways shall be constructed to convey the street design flow if that flow is designed to leave the public right-of-way. Such drainage ways shall be platted as drainage easements or as separate tracts with maintenance provisions designated.
    c. The Drainage Administrator may require construction of a culvert or bridge where a road crosses a natural drainage way. The size of the culvert or bridge shall conform to the Town of Wickenburg Public Works Department and/or Town Engineer standards.

d. If roads are designed to convey runoff, the amount conveyed shall not exceed design standards. Additional flow shall be conveyed in drainage ways if the design standards are exceeded or the depth within roadways is greater than eight inches (8").
e. To prevent back and head cutting, dip sections and culvert crossings of rights-of-way shall have adequate cutoff walls or aprons constructed of non-erodible material.
f. Each site shall have one (1) all-weather road access with a maximum flow of six inches (6") in depth over the roadway or overflow section during the 100-year peak flow event.

6. Finished Floor Elevation. Finished floors of a building shall be elevated a minimum of one foot (1') above the highest grade point within ten feet (10') of the foundation of the building. A finished floor elevation lower than the minimum may be permitted provided it is determined by technical data and certified by an Arizona Registered Professional Civil Engineer to be the minimum necessary to be safe from inundation by the 100-year peak runoff event. Finished floor elevations may be required to be referenced to a known benchmark. Non-livable buildings (see definitions) are exempt from this Section.
7. Floodplain Development. That portion of a development that is within a designated special flood hazard area shall comply with the Floodplain Regulations for Maricopa County. If a developer desires to re-delineate a floodplain, the required data shall be submitted to the District. Development within a delineated floodplain is not exempt from drainage and grading requirements of this Regulation.
8. Landscaping/Grading. Walls, fences, decorative borders, berms and other similar structures or features less than one foot (1') in height above grade are permitted without first obtaining a drainage clearance provided they do not have an adverse effect on adjacent land or obstruct, retard or divert any drainage way or other drainage feature.

Section 604. Drainage Report/Plan (Site).

For developments including but not limited to single family residence, building additions, swimming pools within already fenced property, utility sheds, cabanas or similar structures and similar uses within ineffective flow areas or adequately protected by upslope drainage control structures, a Drainage Report/Plan is not required. However, in such cases, the following minimum information shall be submitted to obtain a drainage clearance:

1. A Site Plan of the property indicating:
   a. North point and scale of drawing.
   b. Property lines with dimensions, including easements.
   c. Legal description, property address and closest intersection.
   d. Location of existing and proposed structures.
   e. Location and size of any existing or proposed drainage easements.
   f. An on-site temporary elevation benchmark for verification purposes.
   g. Drainage arrows and topography with maximum five foot (5') contour interval or sufficient spot elevations to determine building pad elevation.
   h. Appropriate floor elevation criterion.

2. Any supporting information, which the Drainage Administrator deems necessary to evaluate the drainage clearance.
3. Finished Floor Elevation: Finished floors of a building shall be elevated a minimum of one foot (1') above the highest grade point within ten feet (10') of the foundation of the building. A finished floor elevation lower than the minimum may be permitted provided it is determined by technical data and certified by an Arizona Registered Professional Civil Engineer to be the minimum necessary to be safe from inundation by the 100-year peak runoff event. Finished floor elevations may be required to be referenced to a known benchmark. Non-livable buildings (see definitions) are exempt from this Section. If a Drainage Report/Plan is required, it shall be prepared and sealed by an Arizona Registered Professional Civil Engineer.

ARTICLE VII. DRAINAGE REPORT/PLAN (MASTER).

This Article sets forth requirements, which are in addition to the requirements set forth in Article VI and apply to all phases or units within a Master Planned Area.

Section 701. Drainage Report/Plan (Master).

The landowner or developer shall submit for review and approval the following:

1. All existing drainage patterns affecting the land included in the proposed development shall be shown. Washes shall indicate the following:
    a. Size of contributing drainage area, in acres.
    b. Approximate length and width of contributing drainage area.
2. Type and amount of peak flow at lower boundary of the proposed development indicating the effect on neighboring property. The owner or developer is responsible for providing adequate drainage across the proposed development for off-site runoff and on-site runoff within the proposed development. The owner or developer shall also properly dispose of runoff in as nearly as possible the same manner as before development or by other approved means. Peak discharge and velocity at the lower boundary of the proposed development shall not be increased as a result of development.
3. The location and method of retention and runoff conveyance shall be included on the Plan.
4. All information and calculations as required in this Article shall be prepared by an Arizona Registered Professional Civil Engineer.
5. The amount and degree of hydraulic and hydrologic detail required shall be determined by the Drainage Administrator based upon the complexity of the Master Plan.

ARTICLE VIII. DEVELOPMENT DRAINAGE REPORT/PLAN (RESIDENTIAL).

This Article sets forth requirements in addition to the requirements set forth in Articles VI and VII and apply to multiple-family residential developments, unit plans of development, subdivisions, mobile home parks, travel trailer parks, plans of development and special use residential developments.

Section 801. Development Drainage Report/Plan.

A Development Drainage Report/Plan shall be required and shall be in accordance with any Drainage Report/Plan (Area or Master). Where sufficient information has been shown on a Drainage Report/Plan (Area or Master) it may also be submitted as the required Development Drainage Report/Plan. A revised Drainage Report may be required for any undeveloped or partially developed portions of an approved Plan when no development or improvements have occurred for two (2) or more years. The Report shall address existing drainage conditions as compared to drainage conditions at the time of Plan approval. Based upon conclusions of the report, reasonable modifications to the approved Plan may be required by the Drainage Administrator.

The Development Drainage Report/Plan shall be prepared by an Arizona Registered Professional Civil Engineer. A Preliminary Drainage Report is required for Preliminary Plat approval. The Preliminary Report shall address off-site and onsite runoff and the retention volume required. A more detailed Drainage Report shall be submitted for Final Plat approval and shall include but not be limited to the following information:

1. Compliance and continuity with the applicable Master Plan;
2. Location, size and capacity of all existing and proposed drainage system elements including natural washes and swales, drywells, underground systems, retention systems, drainage ways, culverts, pipes, easements and roads;
3. Provisions for conveyance of runoff through the site and the discharge of runoff to the lower boundary that minimizes the effects of the development upon drainage in the area;
4. Lot and roadway layout including designation and use of all land to be used for public or semi-public purposes;
5. Designation of existing and proposed land uses;
6. Site Drainage Reports and plans shall be consistent with such Development Drainage Report/Plan.
7. Finished Floor Elevation: Finished floors of a building shall be elevated a minimum of one foot (1') above the highest grade point within ten feet (10') of the foundation of the building. A finished floor elevation lower than the minimum may be permitted provided it is determined by technical data and certified by an Arizona Registered Professional Civil Engineer to be the minimum necessary to be safe from inundation by the 100-year peak runoff event. Finished floor elevations may be required to be referenced to a known benchmark. Non-livable buildings are exempt from this Section.

ARTICLE IX. DEVELOPMENT DRAINAGE REPORT/PLAN (COMMERCIAL AND INDUSTRIAL).

This Article sets forth requirements, which are in addition to the requirements set forth in Articles VI and VII and apply to commercial and industrial developments.

Section 901. Development Drainage Report/Plan.

A Development Drainage Report/Plan shall be required and shall be in accordance with any Drainage Report/Plan (Area or Master). Where sufficient information has been shown on a Drainage Report/Plan (Area or Master) it may also be submitted as the required development drainage report/plan. A revised Drainage Report may be required for any undeveloped or partially developed portions of an approved Plan when no development or improvements have occurred for two (2) or more years. The Report shall address existing drainage conditions as compared to drainage conditions at the time of Plan approval. Based upon conclusions of the report, reasonable modifications to the approved Plan may be required by the Drainage Administrator. The Development Drainage Report/Plan shall be prepared by an Arizona Registered Professional Civil Engineer and shall include but not be limited to the following information:

1. Location, size and capacity of all existing and proposed drainage system elements including drywells, underground systems, basins, drainage ways, culverts, pipes, easements and roadways;
2. Provisions shall be made for conveyance of runoff through the site and the discharge of runoff at the lower boundary and at the same location and as near as possible to the same conditions as before development, except as approved by the Drainage Administrator;
3. Lot and street layout including designation and use of all land to be used for public or semi-public purposes;
4. A description of methods to be used to flood proof buildings, including utilities up to or above the calculated water surface elevation of the design storm.
5. Finished Floor Elevation: Finished floors of a building shall be elevated a minimum of one foot (1') above the highest grade point within ten feet (10') of the foundation of the building. A finished floor elevation lower than the minimum may be permitted provided it is determined by technical data and certified by an Arizona Registered Professional Civil Engineer to be the minimum necessary to be safe from inundation by the 100-year peak runoff event. Finished floor elevations may be required to be referenced to a known benchmark.
6. Site Drainage Reports and Plans shall be consistent with such Development Drainage Report and Plan.
7. Retention facilities may include natural depressions, manmade basins, depressed parking areas or other methods, which do not result in water being ponded longer than thirty-six (36) hours. No more than twenty-five percent (25%) of public parking shown on the plan shall be used for retention and the maximum depth of the retention facilities cannot exceed twelve inches (12") in public parking areas. Private parking areas shall not be used for runoff retention.

ARTICLE X. DEVELOPMENT DRAINAGE REPORT/PLAN (HILLSIDE DISTRICT).

This Article sets forth requirements applicable to all Hillside District developments, except single family residential, and are in addition to the requirements set forth in Articles VI, VII, VIII, IX.

Section 1001. Development Drainage Report/Plan.

A Development Drainage Report/Plan shall be required and shall be in accordance with any Drainage Report/Plan (Area or Master). Where sufficient information has been shown on a Drainage Report/Plan (Area or Master) it may also be submitted as the required Development Drainage Report/Plan. A revised Drainage Report may be required for any undeveloped or partially developed portions of an approved Plan when no development or improvements have occurred for two (2) or more years. The Report shall address existing drainage conditions as compared to drainage conditions at the time of Plan approval. Based upon conclusions of the Report, reasonable modifications to the approved Plan may be required by the Drainage Administrator. The Development Drainage Report/Plan shall be prepared by an Arizona Registered Professional Civil Engineer and include but not be limited to the following information:

1. Grading:
    a. The entrance and exit points and continuity of all natural drainage ways on a development hillside site, and their preservation shall be provided for in the Plan.
    b. All engineered Grading and Drainage Plans with any cutting or filling of slopes shall meet the provisions of the Town f Wickenburg International Building Code 2003.
    c. Subsurface drainage for cuts and fill slopes must maintain the stability integrity of the cut or slope.
    d. Drainage facilities designed to convey runoff to the nearest approved drainage way. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive cutoff walls, aprons or other approved devices.
    e. Cut and fill slopes must be protected against erosion by suitable plantings, check dams, riprap or other approved methods.
2. Finished Floor Elevation: Finished floors of a building shall be elevated a minimum of one foot (1') above the highest grade point within ten feet (10') of the foundation of the building. A finished floor elevation by an Arizona Registered Professional Civil Engineer to be the minimum necessary to be safe from inundation by the 100-year peak runoff event. Finished floor elevations may be required to be referenced to a known benchmark. Non-livable buildings are exempt from this Section.

ARTICLE XI. AREA DRAINAGE MASTER STUDY.

Section 1101. Adoption.

Whenever an Area Drainage Master Study authorized under this regulation has been completed, such Plan including uniform rules for development may be submitted to the Mayor and Council for adoption as an Area Drainage Master Plan. If adopted by the Mayor and Council, the Town shall enforce the Area Drainage Master Plan under this Regulation.

Section 1102. Public Notification.

During the preparation of an Area Drainage Master Plan, the owners of record of real property within the Drainage Master Plan Area shall be publicly notified by the Town so that the owners may have an opportunity to provide input to the planning process.

Section 1103. Minimum Standards.

Requirements for development within an adopted Area Drainage Master Plan shall meet or exceed the Uniform Drainage Standards adopted by the Mayor and Council or this Regulation. In case of conflict, the most stringent requirements shall prevail.

ARTICLE XII. COMPLIANCE, ENFORCEMENT AND PENALTIES.

Section 1201. Deed Restrictions.

Recording of Deed Restrictions which include drainage easements, tracts, channels or common areas used for drainage purposes to be maintained by the property owner may be required. Recordation of such Deed Restrictions shall be noted on the Final Plat.

Section 1202. Performance Assurances.

Financial assurances may be required by the Drainage Administrator to ensure construction, completion or maintenance of approved drainage facilities. Assurances shall be released upon verification of compliance with approved Plans and all provisions of this Regulation.

Section 1203. Regulation Violation.

It is a violation of this Regulation:

1. To develop, construct, alter, use, repair, improve, fill, divert, obstruct, remove or commence the creation, construction, alteration, repair, improvement, filling, diversion, obstruction or removal of any wash, culvert, easement, channel, ditch, berm, retention basin, wall fence, other structure or use which may affect any natural drainage or improved drainage design or drainage system without obtaining a drainage clearance from the Drainage Administrator.
2. For any person to place or allow to be placed any fill material, rubbish, trash, weeds, filth or debris which obstructs, retards or diverts any natural or improved drainage system upon any private or public property located in the incorporated areas of the Town of Wickenburg.
3. For failure to maintain any natural drainage system or any drainage easement, tract, channel or common area created pursuant to this Regulation.
4. For failure to obtain the required Drainage Clearance or final drainage inspection approval prior to obtaining a final Certificate of Occupancy for permits issued to construct commercial, industrial, educational, institutional, and such dwelling units as condominiums and apartments.
5. For failure to obtain the required floor/stemwall/foundation elevation inspection approval prior to securing a final building inspection for a single family dwelling including mobile/manufactured home, additions thereto or accessory buildings.
6. For any owner (builder/developer) to fail to correct any deficiencies noted at the time of the final drainage inspection. A Final drainage inspection approval shall be obtained within ninety (90) days of the date of notice of such deficiencies or final Building Inspection, and/or occupancy of the dwelling unit, whichever is the longer period.

Section 1204. Civil Remedies.

The Town Attorney/Town Prosecutor or any person who may be or has been damaged by the violation of any provision of this Regulation may institute legal action to enforce the provisions of this Regulation or seek damages and attorneys fees for violations of this Regulation.

Section 1205. Declaration of Public Nuisance.

Violation of the requirements of this Regulation is a public nuisance, per se, and subject to all remedies as provided by law.

Section 1206. Violation Removal.

1. If the property owner fails to remove fill material, rubbish, trash, weeds, filth, debris or any obstruction that is classified as a violation under Section 203 of this regulation or that which the Drainage Administrator determines obstructs, retards or diverts a natural or improved drainage system, after thirty (30) days written notice from the Drainage Administrator to remove or abate the condition, the Drainage Administrator may, remove or cause the removal of the fill material, rubbish, trash, weeds, filth or debris upon his determination that failure to remove or abate the condition constitutes a threat to the public health, safety or welfare.
2. The charge for the removal shall be billed to the property owner and collected by the Town Attorney/Town Prosecutor by use of all appropriate legal remedies, including but not limited to a lien against the property for the costs of removal plus attorneys fees and costs of collection.
3. The determination that the condition constitutes a hazard to the public health, safety or welfare may be appealed in the same manner as appeals from decisions of the Drainage Administrator as set forth in Article V above and such appeal shall be filed within thirty (30) days of receipt of the written notice from the Drainage Administrator.
4. The Drainage Administrator shall be under no affirmative duty pursuant to this Section to either identify violations or undertake their removal. Removal pursuant to this Section is discretionary with the Drainage Administrator.
5. The property owner shall be liable for any damages caused by failure to remove or abate the condition.

Section 1207. Criminal Penalties.

Any person, firm or corporation violating this Regulation, or any part thereof, is guilty of a Class 2 Misdemeanor, which is punishable by fine, imprisonment or both. Each and every day during which the violation continues to exist is a separate offense.

ARTICLE XIII. DEDICATIONS.

Section 1301. Dedications.

The Mayor and Council may require, as a condition of issuance of a drainage clearance or variance, dedication, or the use to the Town or the Flood Control District of Maricopa County land necessary for construction of area drainage facilities to be constructed in accordance with a Master Drainage Plan or Development Drainage Plan if the need for the facility emanates at least in part from the proposed Development. The amount of land required shall be proportionate to the amount of runoff contributed by a parcel to the total runoff calculated for the Master Drainage Plan or Development Drainage Plan.

ARTICLE XIV. WARNING AND DISCLAIMER OF LIABILITY.

The degree of protection from flooding due to stormwater runoff required by this Regulation is considered reasonable for regulatory purposes and is based on engineering and scientific methods of Study. Compliance with this Regulation does not insure complete protection from flooding and is not to be taken as a warranty, greater storms may occur or the water damage hazard may be increased by manmade or natural causes such as silting of channels and canals, pipe and culvert openings restricted by debris, natural erosion or manmade obstructions or diversions. This Regulation does not imply that land uses will be free from flooding or flood damage. This Regulation shall not create liability on the part of the Town of Wickenburg or Maricopa County or any officer or employee thereof for any flood damages that may result from reliance on this Regulation or any administrative decision lawfully made thereunder.

ARTICLE XV. SEVERABILITY AND EFFECTIVE DATE.

Section 1501. Severability.

This Regulation and the various parts thereof are hereby declared to be severable. Should any Section of this Regulation be declared by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of this Regulation as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

Section 1502. Effective Date.

This Regulation as amended by the Board of Supervisors of Maricopa County, Arizona, on the 14th day of December, 1994 was adopted on August 2, 2004 by the Wickenburg Mayor and Council through Ordinance No. 925 and became effective on September 2, 2004.

CHAPTER 12 TRAFFIC AND STREETS

ARTICLE 12-1 ADMINISTRATION

12-1-1 Duty of Police Department
12-1-2 Records of Traffic Violations
12-1-3 Police Department to Investigate Accidents
12-1-4 Traffic Accident Studies
12-1-5 Traffic Accident Reports

Section 12-1-1 Duty of Police Department

A. It shall be the duty of the Police Department to provide for the enforcement of the street traffic regulations of the Town and all of the State vehicle laws applicable to street traffic in the Town, to make arrests for traffic violations, to investigate accidents and to assist in developing ways and means to improve traffic conditions and to carry out all duties specially imposed upon the Police Department by this Chapter.

B. In addition, the Police Department is authorized to enforce the provisions of this Code, or of any of the ordinances of the Town of Wickenburg or the laws of the State of Arizona regulating the standing or parking of vehicles, including enforcement of said ordinances and laws on private property, where authorized to do so by the owner or owners of private property in accordance with Article 12-3-7 (C) of this Chapter.

Section 12-1-2 Records of Traffic Violations

A. The Police Department shall keep a record of all violations of the traffic laws of the Town or of the State vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall accumulate during at least a five (5) year period and from that time on the record shall be maintained complete for at least the most recent five (5) year period.

B. All forms for records of violations and notices shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

C. All records and reports shall be public records.

Section 12-1-3 Police Department to Investigate Accidents

It shall be the duty of the Police Department to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

Section 12-1-4 Traffic Accident Studies

Whenever the accidents at any particular location become numerous the Police Chief shall conduct studies of such accidents and determine remedial measures.

Section 12-1-5 Traffic Accident Reports

A. The Police Chief shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location.

B. The Police Department shall receive and properly file all accident reports under State law or under any law of the Town, but all such accident reports made by drivers shall be for the confidential use of the Town and no such report shall be admissible in any civil or criminal proceeding other than upon request of any person making such report or upon request of the court having jurisdiction, to prove a compliance with the laws requiring the making of any such report.

ARTICLE 12-2 TRAFFIC CONTROL

12-2-1 Directing Traffic
12-2-2 Obedience to Traffic Regulations
12-2-3 Use of Coasters, Roller Skates and Similar Devices Restricted
12-2-4 Traffic Control Devices
12-2-5 Authority to Designate Crosswalks, Establish Safety Zones and Mark Traffic Lanes
12-2-6 Authority to Place and Obedience to Turning Markers
12-2-7 Authority to Place and Obedience to Restricted Turn Signs
12-2-8 Limitations on Turning Around
12-2-9 One-Way Streets and Alleys
12-2-10 Regulations of Traffic at Intersections
12-2-11 Drivers to Obey Signs
12-2-12 Processions
12-2-13 Speed
12-2-14 Restriction of Truck Travel Upon Town Streets
12-2-15 Off-Road Vehicles on Town Property

Section 12-2-1 Directing Traffic

A. The officers of the Police Department are hereby authorized to direct all traffic by voice, hand or signal.
B. Officers of the Fire Department, when at the scene of a fire, may direct or assist the officer of the Police Department in directing traffic thereat or in the immediate vicinity.

Section 12-2-2 Obedience to Traffic Regulations

It is unlawful for any person to do any act forbidden or fail to perform any act required by this Chapter. It is unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of any Police Department official or of any Fire Department official.

Section 12-2-3 Use of Coasters, Roller Skates and Similar Devices Restricted

It is unlawful for any person upon roller skates or riding any coaster, toy vehicle or similar device to go upon any roadway except while crossing a street on a crosswalk and, when crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

Section 12-2-4 Traffic Control Devices

A. The Manager shall place and maintain traffic control devices, signs and signals when and as required under the traffic regulations of the Town to make effective the provisions of said regulations, and may place and maintain such additional traffic control devices as he may deem necessary to regulate traffic under the traffic laws of the Town or under State law or to guide or warn traffic.
B. The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic regulations of the Town unless otherwise directed by a Police Officer, subject to the exceptions granted in this Chapter or by State law.

Section 12-2-5 Authority to Designate Crosswalks. Establish Safety Zones

The Manager is hereby authorized:

A. To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

B. To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

C. To designate and mark appropriately loading zones and taxicab zones, and upon such appropriate marking such zones shall not be subject to the provisions of Article 12-3 when used for the intended purposes.

D. To mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with the traffic laws of the Town.

Section 12-2-6 Authority to Place and Obedience to Turning Markers

A. The Manager is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law.

B. When authorized markers' buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Section 12-2-7 Authority to Place and Obedience to Restricted Turn Signs

A. The Manager, on approval by the Council, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or such signs may be removed when such turns are permitted.

B. Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of arm such sign.

Section 12-2-8 Limitations on Turning Around

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

Section 12-2-9 One-Way Streets and Alleys

A. The Manager shall designate any streets or alleys which are to he limited to one-way traffic.

B. The Manager shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Section 12-2-10 Regulation of Traffic at Intersections

A. The Manager shall designate through streets, intersections where stops are required, and intersections where vehicles shall yield the right of way.

B. The Manager shall erect and maintain the appropriate signs at every location where a vehicle must stop or yield the right-of- way.

Section 12-2-11 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 Police Chief or a traffic control signal. No driver shall drive upon or through any private property such as an oil station, vacant lot, or similar property to avoid obedience to any regulation included in this Chapter.

Section 12-2-12 Processions

A. No procession or parade, except funeral processions, shall be held without first securing a permit from the Police Chief, and all such requests for permits shall state the time, place of formation, proposed line of march, destination and such other information as the Police Chief may request.
B. A funeral procession composed of a procession of vehicles shall be identified by such methods as may be determined and designated by the Police Chief.
C. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic control signals or the Police Chief.
D. Each driver in a funeral or other procession shall drive as near to the right hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

Section 12-2-13 Speed * Ord. 1130

It shall be unlawful for any person to drive a vehicle upon any unpaved, dirt street in excess of fifteen (15) miles per hour or any paved street in excess of twenty-five (25) miles per hour, except where otherwise specifically provided by sign or this Code.

Section 12-2-14 Restriction of Truck Travel Upon Town Streets

A. This Section shall apply solely to users of streets within the Town boundaries and under the jurisdiction of the Town of Wickenburg. Users of highways within the Town limits, which are within the State highway system and under the jurisdiction of the State of Arizona, shall comply with the requirements of State law and upon such compliance are exempt from this Section.
B. No truck as defined in Subsection C herein shall be operated upon Town streets.
C. "Truck" in this Section shall mean vehicles with motive power, other than buses and recreational vehicles, having three (3) or more axles and measuring thirty-six feet (36') or longer in overall length, including truck and load, which are designed and used primarily for carrying property other than the effects of the driver.
D. The following exceptions shall be made to this Section:
    1. This Section shall not apply to fire apparatus, road machinery, or implements of husbandry including farm tractors temporarily moved upon a Town street.
    2. Trucks as defined in Subsection C of this Section, may operate on Town streets for the delivery of merchandise, materials or equipment going to a specific location on a restricted street. In such cases, said vehicles shall use the restricted streets for as short a distance as possible.
    3. Trucks having a base of operations on a Town street may enter or leave its base of operations at any time by the most direct route.
    4. Trucks may use Town streets when picking up or delivering to businesses or addresses on said streets. In such cases, said vehicles shall use said Town streets for as short a distance as possible.

Rev. Ord. 871-05/01
*Ord. 1130-02/14

E. Except for emergency fire, police or medical vehicles or apparatus operating during an actual emergency, all trucks, vehicles, machinery and trailers of any type operating on Town streets and which measure thirty feet (30') or longer in overall length are prohibited from traveling east-bound on West Yavapai Street past its intersection with Jefferson Street. Such vehicles shall follow alternative routing designated by the Town.

F. Any person driving any truck as defined in Subsection C of this Section, upon any street under the jurisdiction of the Town of Wickenburg, shall be liable for all damage to any street, light or sign of the Town as a result of any illegal operation, driving or moving of any vehicle in violation of this Section. When the driver is not the owner of the truck but is so operating, driving or moving the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any damage. Such damage may be recovered in a civil action brought by the Town.

Section 12-2-15 <u>Off-Road Vehicles on Town Property</u>

It is unlawful for any person to operate any motor vehicle on property of the Town except on established roads or drives or in designated parking areas.

ARTICLE 12-3 PARKING

12-3-1 Method of Parking
12-3-2 Blocking Traffic
12-3-3 Parking Adjacent to Schools
12-3-4 Authority to erect Signs Restricting Parking
12-3-5 Parking Vehicles on Sidewalks
12-3-6 Abandoned Vehicles
12-3-7 Restricted Parking Areas For Physically Disabled Persons; Identification; Violations
12-3-8 Parking Vehicles Where the Curb is Painted Red
12-3-9 Parking of Motorized Vehicles on Town Streets *

Section 12-3-1 <u>Method of Parking</u>

Except as otherwise provided by resolution of the Council, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right hand wheels of such vehicle parallel to and within eighteen inches (18") of the right hand curb.

A. It is unlawful for any person to stop, stand or park any motor vehicle or other vehicle, upon a street in the Town in such manner or under such conditions as to leave available less than twelve feet (12') of the width of the roadway for the free movement of vehicular traffic, except that a person may stop temporarily in the actual loading or unloading of passengers or, when necessary, in the observance of traffic signs or signals of the Police Chief.

B. It is unlawful for any person to park a motor vehicle, or other vehicle, within an alley or entrance to a private driveway except for the loading or unloading of materials, and not then unless such loading or unloading can be accomplished without blocking the alley to the free movement of vehicular traffic.

Section 12-3-3 <u>Parking Adjacent to Schools</u>

When signs are erected indicating no parking on that side of the street adjacent to any school property, no person shall park a vehicle in any such designated place for one (1) hour before school opens until one (1) hour after school closes on any school day.

Rev. 11/83 – 8/98- 5/01 Ord. 871
Ord. 1042-2/7-1-09
• Ord. 1151- 8/15

Section 12-3-4 Authority to Erect Signs Restricting Parking

The Manager may erect signs requiring parking at an angle to the curb, allowing parking on the left hand curb on one-way streets, notifying drivers that parking is prohibited and restricting parking in any way that may be necessary. No parking restrictions shall become effective until signs have been erected as authorized by this Section. It is unlawful for any person to stop or stand a vehicle in disobedience to such parking restrictions.

Section 12-3-5 Parking Vehicle on Sidewalks

It is unlawful for any person to park any vehicle, whether in usable condition or not, or for an owner to permit his vehicle to be parked upon any sidewalk in the Town.

Section 12-3-6 Abandoned Vehicles

Any vehicle remaining parked upon any sidewalk of the Town for more than three (3) days, or any disabled vehicle remaining parked upon any street of the Town for more than seven (7) days, is declared to be an abandoned vehicle and the Police shall forthwith remove the same from the sidewalks or streets of the Town at the expense of the owner of such vehicle.

Section 12-3-7 Restricted Parking Areas For Physically Disabled Persons; Identification; Violations

A. For purposes of this Section and its enforcement, the term "restricted parking area for physically disabled persons" shall refer to those spaces designated by a sign stating, "reserved parking" and bearing the internationally accepted symbol of access in accordance with Title 28 of the Arizona Revised Statutes. Additionally, such restricted parking area shall include any loading/unloading zone directly adjacent to the parking space designated by painted stripes.

B. Those persons or businesses required by law or otherwise electing to provide restricted parking areas for physically disabled persons shall maintain such parking so that its designation as parking restricted to such persons is readily obvious. Maintenance shall include the repainting of the lines delineating the area as needed to insure adequate visibility and the upkeep of the sign designating the space as restricted in accordance with Title 28 of the Arizona Revised Statutes.

C. No person shall park in a restricted parking area for physically disabled persons unless the vehicle has displayed thereon a distinguishing insignia or numbered plates bearing the international symbol of access in compliance with Title 28 of the Arizona Revised Statutes.

D. No person shall park in a restricted parking area adjacent to a restricted parking area for physically disabled persons designated by painted stripes.

Rev. 11/83 – 8/98- 5/01 Ord. 871
Ord. 1028/2-09
Ord. 1042-2/7-1-09

E. Any person or business which causes a parking space to be set aside as a restricted parking area for physically disabled persons shall be deemed to have given consent to the Wickenburg Police Department to enforce a violation of this Section when such violation occurs on the private property of such person or business.

F. Any sign required or otherwise erected pursuant to this Section shall, in addition to all other required information, have displayed thereon a notice that the maximum penalty for a violation is $500.

G. Notwithstanding, the provisions of sub-Section (f) above, upon determination that any person or business is in non-compliance with sub-Section (b) of this Section, a written warning shall first be either mailed or hand-delivered to the person or business, giving ten (10) days to such person or business to come into compliance.

H. Violations of this Section shall be designated civil offenses and subject to the penalties set forth in Section 1-8 of this Code. Each day the person or business fails to come into compliance with this Code shall constitute a separate violation.

Section 12-3-8 <u>Parking Vehicles Where the Curb is Painted Red</u>

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic, where the curb is painted red at the direction of the Manager.

Section 12-3-9 <u>Parking of Motorized Vehicles nn Town Streets</u> * Ord. 1151

A. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings when used in this section, except where the context clearly indicates a different meaning;

Motorized vehicle means any vehicle designed to operate on land, water or air, that is self-propelled, was self-propelled or is intended to be self-propelled.

Recreational vehicle means:

1. A portable camping trailer mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfolds for camping;
2. A motor home or bus designed to provide temporary living quarters for recreational, camping or travel use, and built on or permanently attached to a self-propelled motorized vehicle chassis or on a chassis, cab or van that is an integral part of the completed vehicle;
3. A park trailer built on a single chassis, mounted on wheels and designed to be connected to utilities necessary for operation of installed fixtures and appliances and has a gross trailer area of not less than 320 square feet and not more than 400 square feet when it is set up, except that it does not include fifth wheel trailers;

Ord. 1042-2/7-1-09
*Ord. 1151-8/15

4. A travel trailer mounted on wheels designed to provide temporary living quarters for recreational, camping or travel use, of a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle. This subsection includes fifth wheel trailers;
5. A portable truck camper constructed to provide temporary living quarters for recreational, travel or camping use and consisting of a roof, floor and sides designed to be loaded onto and unloaded from the bed of a pickup truck;

6. Boats of any size and type.

Street means the entire width between the boundary lines of every right-of-way including the improved or unimproved shoulder.

Truck means a vehicle other than a recreational vehicle, having three (3) or more axles and measuring thirty six (36) feet or longer in overall length, including truck and load, which are designed and used primarily for carrying property other than the effects of the driver or passengers, and includes a motor vehicle to which has been added a box, platform or other equipment for such carrying.

Utility trailer means a vehicle without motor power, other than a pole trailer or semitrailer, designed for carrying property and for being drawn by a motorized vehicle.

Emergency services means a vehicle unintentially does not operate and repairs are necessary to make the vehicle operational. Vehicle shall be permitted to park on street for no longer than twenty four (24) hours for subject repair.

B. Parking of trucks, recreational, utility trailers and boats on streets is prohibited in excess of forty eight (48) hours except as permitted in this section.

1. No person shall park a truck on any street over forty eight (48) hours, except as follows:

   a. While actively loading and unloading the truck.

   b. While emergency services are being provided by the truck's occupant. This does not include any general maintenance or service of the truck itself.

2. No person shall park a recreational vehicle or utility trailer on any street, except a person may park a recreational vehicle or utility trailer for a period not to exceed forty eight (48) hours; provided, the recreational vehicle or utility trailer does not block the driveway. Under no circumstances shall persons be allowed to inhabit a recreational vehicle while parked on a street.

3. It is prohibited for any of the aforementioned vehicles or utilities to park within fifteen feet (15') from any hydrant, marked crosswalk, flashing beam or any traffic control signal or sign.

4. Should a warning or citation be issued for illegal parking, vehicle or utility must be relocated to private property and not to other location on same street or adjoining street.

*Ord. 1151-8/15

5. There shall be no requirement to post warning signs

C. Civil traffic violations.

Any violation of the provisions of this article shall constitute a warning to the registered owner followed by a civil traffic violation and subject to the penalty provisions of section 1-8.

ARTICLE 12-4 STREET LIGHT REGULATIONS

12-4-1 Residential Areas
12-4-2 Major Arterials
12-4-3 Replacement Lighting
12-4-4 Implementation
12-4-5 Removal/Turn-Offs
12-4-6 Final Acceptance and Dedication of Streetlights ■Ord. 1028/2-09

Section 12-4-1 Residential Areas

Install 9,500 lumen high-pressure sodium lights on thirty foot (30') steel poles with mast arms. Install lights at all intersections and at mid-block, as necessary, keeping a spacing of approximately 374 feet using the apex of the property lines for position.

Section 12-4-2 Major Arterials

Install 30,000 HPS lights on thirty-eight and one-half foot (38.5') steel poles with mast arms on one (1) side of the street only. Spacing should be approximately 325 feet for one (1) sided lighting on up to four (4) lane streets.

a. If wood pole distribution or transmission lines exist along a major arterial, which requires one-sided lighting, use these poles for lighting.

b. For major arterials having more than four (4) lanes, lights should be installed on both sides using staggered spacing.

Section 12-4-3 Replacement Lighting

As replacements occur on the Town of Wickenburg system, they shall conform to these Street Light Regulations.

*Ord. 1151-8/15

■Ord. 1028/2-09

Section 12-4-4 Implementation

On an annual basis, the Town Council may establish a dollar amount that is available for the installation of streetlights in areas, which were not provided with them at the time the area was developed. The Council may accept applications for installation of streetlights, which are accompanied by a petition bearing the signatures of at least fifty-one percent (51%) of the property owners on the street in the area to be serviced.

a. The Council shall not accept applications to install streetlights in subdivisions approved after January 1, 1994.

Section 12-4-5 Removal/Turn-Offs

Any light installed at the Town's expense shall not be removed and/or disconnected unless the same process is followed as required under Section 12-4-4 above. Any request for removal or disconnect must be approved by the Council.

Section 12-4-6 Final Acceptance And Dedication Of Streetlights

Ord. 1028/2-09

Any street lights intended to be dedicated to the Town for maintenance and operation shall be accepted and dedicated in the same manner as set forth in Section 11-5-10.

5/86-05/01 Ord. 871
Ord. 1028/2-09

CHAPTER 13 UTILITIES

ARTICLE 13-1 UTILITIES IN GENERAL

13-1-1 Establishment of Utility Rates
13-1-2 Agreement for Utility Service
13-1-3 Deposits
13-1-4 Billing and Payment for Utility Service
13-1-5 Delinquent Bills; Termination of Services
13-1-6 Reestablishment of Utility Service
13-1-7 Customer Transfers
13-1-8 Temporary Partial Service
13-1-9 Customer Responsibilities
13-1-10 Conditions of Receipt of Utility Service
13-1-11 Utility Equipment
13-1-12 Unlawful Acts; Tampering; Obstruction; Discontinuation of Service
13-1-13 Limitation of Liability
13-1-14 Procedure to Challenge Utility Bills
13-1-15 Right to Enter; Inspections
13-1-16 Miscellaneous

Section 13-1-1 Establishment Of Utility Rates

A. Rates, deposits, fees and charges for each utility service provided by each Utility Department, including the terms and conditions upon which they will be collected, may be established by resolution of the Council.

B. Rates for each Utility Service Department shall be sufficient to:
   1. Pay when due all bonds and interest thereon for the payment of which revenue has been pledged, encumbered or charged; and,
   2. Provide for all expenses of operation, maintenance, expansion, and replacement of facilities; and,
   3. Provide reasonable reserves for the purposes set forth in Paragraphs 1 and 2 of this Subsection for each Utility Service Department to which such rates apply; and,
   4. Provide for capital improvements in the Town at levels deemed appropriate by Council. ✍Ord. 998

C. Applicable taxes, fees, assessments or other charges imposed by any governmental entity related to a specific utility service may be added to the bill for that utility service as a pass through cost unless otherwise included in the service rate. The method of passing through any such cost shall be determined by the Town Manager who shall reduce the methodology to writing and deposit a copy thereof with the Town Clerk.

Section 13-1-2 Agreement For Utility Service

A. An agreement for utility service by the Town and a customer is initiated as follows:

   1. The act of requesting or receiving utility service from the Town constitutes an agreement by the customer to comply with all the terms and conditions related thereto which are imposed by the Town.
   2. A landlord automatic transfer of service agreement must be executed by all landlords, which will constitute an agreement, by the landlord to comply with all the terms and conditions related thereto, which are imposed by the Town.

B. As a condition of initiating, continuing or re-establishing utility service, the Town may require the customer to execute an agreement for utility service in a form provided by the Town.

C. The Town Manager may permit utility service to be activated by telephone.

D. The Town may reject any application for utility service for any good and sufficient reason, including, but not limited to the failure to meet conditions of rendering service specified in Section 13-1-10.

Section 13-1-3 Deposits

A. Each applicant for utility service, as a condition of receiving service, shall deposit with the Town the sum established by the Council as the initial deposit for the type and class of service requested. Such sum shall constitute a deposit for the protection of the Town in the event of failure of such customer to meet all obligations due the Town by the reason of purchase of such utility service.

B. If it becomes apparent that the initial deposit is insufficient or is excessive to provide for the protection of the Town, then the Finance Director shall have the right to make an adjustment either for additional deposit or rebate to the customer as may be appropriate.

C. In lieu of said deposit, and at the sole discretion of the Town, the Town may accept:

1. Letters of credit or guarantee issued by the applicant's previous utility provider for the same type of utility service within one (1) year from termination of service from the previous utility provider. Said letters must be mailed or sent by facsimile directly to the Town from the previous utility and be received by the Town within five (5) days of the applicant's request for service. Letters otherwise presented to the Town shall not be accepted in lieu of deposits.
2. An alternative means of securing payment, approved by the Town Manager in his sole discretion, such as the establishment of a line of credit with a bank.

D. The Town shall return such deposit to the consumer if during any consecutive twelve (12) month period; the customer has paid his electric utility bills without delinquency.

Section 13-1-4 Billing And Payment For Utility Service

A. Bills for utility services shall be mailed on a regular schedule (in most instances monthly) and shall be due twenty-five (25) days thereafter. Each bill shall separately set forth the amount due for each utility service for which a charge is being made.

B. Where the utility service is measured, the Town shall bill based on the readings of the measuring device unless the Town is unable to read the measuring device or has reason to believe the measuring device is inaccurate. In such instances, the Town shall bill based upon the customer's estimated usage utilizing generally accepted estimating techniques. The customer's bill shall indicate if the billing is based upon an estimate of usage.

C. Payments for utility service shall be first applied to amounts due for delinquent bills, in the following order: trash and garbage collection, sewer service, electric service and water service and then to the current bills in the same order.

Section 13-1-5 Delinquent Bills: Termination Of Service

A. A utility service bill which remains unpaid twenty-six (26) days from the billing date is delinquent and is subject to a late payment penalty, as established by the Town Council by resolution, and to termination on not less than ten (10) days notice in accordance with Subsection B of this Section. The Town may discontinue all or a portion of other Town supplied utility service for the failure to pay billings, when due, for any Town supplied utility service.

B. The Town shall mail written notice of its intent to terminate service to a delinquent account not less than ten (10) days in advance of the intended date of termination. The customer shall be notified as to which utility service is subject to termination and that the bill may be discussed with the Town Manager or designee. Notice may be provided on or with the regular billing to the customer or by separate notice delivered by hand or regular United States Postal Service at the service address or the most recent mailing address provided by the customer. No further notice or attempt to collect the delinquent account shall be made. In the event payment is made in the field, both a late payment penalty and a field collection charge, as established by the Council by resolution, must also be paid at the time to bring the account current.

C. The billing date shall be the date the bill is mailed as reflected by the billing date on the bill, the postmark date, the receipt provided by the United States Postal Service or similar service or a certificate of mailing prepared by the Town. In the event evidence reflecting differing billing dates is presented, the later date shall control.

D. Any utility bill not paid in full within thirty (30) days after service is terminated will be subject to appropriate collection activities, and the customer shall be responsible for any pay all costs of collection, including Court costs and reasonable attorneys fees. All judicial judgments entered in favor of the Town on delinquent accounts shall be reported to one (1) or more credit bureaus, as determined by the Town.
E. The Town Manager may grant up to a thirty (30) day extension of any time limit provided in this Section upon written request and for good cause shown.

Section 13-1-6 Reestablishment Of Utility Service

A. A utility service which has been terminated shall not be reestablished except upon payment of any delinquent amounts owed to the Town, the usual fee for establishing the utility service, late payment penalties, reestablishment of a deposit, which shall be the greater of the current utility deposit established by the Council or double the average billings for the six (6) months prior to service being cut-off, any other applicable fees or charges established by the Council and any other incidental costs, expenses or employee time occasioned by the shutoff.
B. The Town Manager may establish procedures by which a delinquent bill may be brought current in not more than six (6) installment payments. The Council may set an installment fee. Failure to comply with the terms and conditions so established shall be grounds for immediate termination of utility service with or without notice.

Section 13-1-7 Customer Transfers

Whenever a customer voluntarily terminates a utility account with the Town and wishes to open a new account for the same or any class of utility service:

A. Any amount due on the final bill of their previous account may, at the Town's sole discretion, be transferred to the new account. Said amount shall be treated the same as any other amount due on the new account.
B. Any deposit from the previous account may, at the Town's sole discretion, be applied to their final bill or transferred to the new account.

Section 13-1-8 Temporary Partial Service

Whenever a customer will be temporarily absent from a property receiving utility service from the Town, and desires to halt some, but not all of the utility service provided by the Town, the customer may do so by informing the Town of their departure date and their return date and the service or services they wish to temporarily stop. The temporary stop period must be for at least three (3) months. The Town may halt such service for the time period specified; however, no adjustment in rates shall be made for any month in which the utility service was rendered to the property.

Section 13-1-9 Customer Responsibilities

A. Each customer shall be responsible for timely paying for utility services provided under the customer's name or to the customer's property until the utility service is duly terminated or discontinued pursuant to this Chapter.

B. Each customer shall be responsible for maintaining all facilities on the customer's side of the point of delivery in a safe and efficient manner and in accordance with any applicable law, rule, regulation or order.

C. Each customer shall be responsible for safeguarding all Town property installed in or on the customer's premises for the purpose of providing utility services.

D. Each customer shall exercise all reasonable care to prevent loss or damage to Town property, excluding ordinary wear and tear. The customer shall be responsible for loss of damage to utility property on the customer's premises arising from neglect, carelessness or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.

E. Each customer shall be responsible for payment for any equipment damage resulting from unauthorized breaking of seals, interfering, tampering or bypassing the measurement device used by the Town to measure the utility service being provided.

F. Any person, who leases, rents or otherwise permits the occupancy of their real property within the Town or which is eligible to receive utility service from the Town shall notify the Town if the property is not to be provided utility service by the Town. Any property owner who fails to notify the Town shall be jointly and severally liable for any utility service requested or received by the tenant, lessee or other occupant of their property.

G. Each customer shall be responsible for providing, without cost to the Town, all utility equipment, lines, meters and appurtenant facilities necessary for the Town to provide proper utility service to the customer and to provide title to such facilities in a manner deemed acceptable to the Town.

H. Each customer shall be responsible for providing safe ingress and egress to, and cooperating with, the Town's employees, representatives and agents for the purpose of assessing facilities related to the provision of utility service and to perform inspections related to the provision of utility service and shall maintain all easements and right-of-way of the Town free and clear of obstructions and hazardous conditions.

I. Each customer shall comply with all applicable provisions of this Code and any other law, rule, regulation or order governing the provision or receipt of utility service.

Section 13-1-10 <u>Conditions of Receipt of Utility Service</u>

A. No utility service shall be initiated, continued or reestablished unless all of the following are met:

1. The Town offers and determines it is capable of providing the utility service under an established rate.
2. Providing the utility service would not involve excessive cost to the Town.
3. Providing the utility service would not adversely affect the service to existing customers.
4. The customer has executed a service agreement for the utility service in a form provided by the Town or, where permitted by the Town Manager, has activated service by telephone.
5. All deposits, fees and other charges applicable to the utility service have been paid.
6. All bills rendered for utility service provided to the customer and/or the service location have been paid.
7. All extensions to the Town's system necessary to provide service to the customer have been constructed and accepted by the Town, without cost to the Town.
8. All improvements at the service location necessary to enable the Town to provide the utility service have been completed, without cost to the Town.
9. Adequate easements and rights-of-way, satisfactory to the Town, have been granted to the Town to ensure the Town can provide proper utility service to the service location.
10. The dwelling or residence, if intended for human habitation, i.e. equipped with a water closet in good working order, properly connected to a sanitary sewer or where such sanitary sewer is not available, connected to a sanitary cesspool in good working order.
11. The customer and the service location are in compliance with all provisions of this Code and all rules, regulations and procedures adopted hereunder.

B. The initiation, continuation or reestablishment of utility service shall not constitute a determination by the Town that the conditions for service set forth above have been met, nor does it preclude the Town from pursuing any remedy available to the Town arising from the customer's failure to satisfy the condition including, but not limited to, termination of utility service with or without notice.

Section 13-1-11 <u>Utility Equipment</u>

A. All utility equipment, including, but not limited to, water mains, sewer mains, service pipes, meters, trash containers and appurtenant equipment supplied or maintained by the Town or on the Town's side of the point of delivery shall be and is vested in the Town. In no case shall the owner of any premises have the right to claim any right, title or interest therein except where otherwise provided in this code or by written contract with the Town. The owner of the premises shall provide Town documentation evidencing the Town's title to said facilities in a form acceptable to the Town, if so requested by the Town.

B. No person, without the prior consent of the Town Manager, shall use, connect to or otherwise manipulate the Town's utility equipment.

Section 3-1-12 <u>Unlawful Acts; Tampering; Obstruction; Discontinuation Of Service</u>

A. Every person who interferes with the officers or agents of the Town in the discharge of their duties under this Chapter, or who digs up or causes to be dug up any street or alley in the Town for the purpose of connecting with the water, irrigation, effluent reuse or sewer systems of the Town without first obtaining a permit from the building official to do so, or who, having such a permit, digs up or causes to be dug up any portion of any street or alley for the purpose of connecting with water, irrigation, effluent refuse or sewer system and fails to replace the street or alley in its original condition or who violates any of the provisions of this Chapter is guilty of a misdemeanor.

B. It shall be unlawful for any person intentionally, knowingly or recklessly to tamper with, deface or damage, as these terms are defined in A.R.S. § 13-1601 any utility, as this item is defined in A.R.S. § 13-1601, appliance or fixture, including but not limited to any hydrant, valve, line pipe, plant, meter, well, storage tank, booster station, waterworks appliance, sewer appliance or other utility fixture or in any other manner interfere with the operation of any part of the water, irrigation, effluent reuse or sewer systems of the Town.

C. No person shall obstruct or place upon or about any utility appliance or fixture, including but not limited to any valve, valve box, curb cock, meter box or water gate connected with the water, irrigation, effluent reuse or sewer systems of the Town or any object, material, debris or structure of any kind that shall prevent free access to the same at all times or in any manner tamper with or injure such appurtenances. No person shall fill up or cover over any valve or meter box.

D. The Town may discontinue, suspend or refuse service to any consumer or other person who tampers with, obstructs the water supply system of the Town, or who otherwise willfully disregards the provisions of the utility services contract or this Code, commits fraud or abuse.

E. The Town may further discontinue, suspend or refuse utility service for any of the foregoing reasons:

1. As a result of emergency repair, insufficient supply, legal process, strike, riot, fire, flood, accident or any unavoidable cause.
2. An unauthorized turn-on.
3. The failure of the customer or the property owner to meet any of the conditions for initiating, continuing or reestablishing service set forth in Sections 13-1-9 and 13-1-10.
4. To prevent fraud or abuse.
5. Emergency repairs.
6. Insufficient supply caused by factors outside the control of the Town.
7. Legal process.
8. Local emergency requiring emergency measures.
9. At the direction of the Council or other public authorities.

F. Any person who wishes to discontinue a utility service shall provide not less than three (3) days advance notice to the Town of the intended termination of the utility service. The notice shall include the customer's name, service location, account number, the utility service to be terminated and the proposed termination date and shall not be deemed given unless in writing and received by the Town. The Town Manager may establish, in writing, an alternative notice procedure such as telephonic notice. If termination of the utility service would violate this Chapter, the customer shall be so notified and the utility service shall not be discontinued.

Section 13-1-13 <u>Limitation of Liability</u>

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. In the event utility service is interrupted, discontinued, irregular or defective or fails from causes beyond the Town's control or due to the ordinary negligence of its employees, servants or agents, the Town shall not be liable for damages, claims or losses arising there from.

Section 13-1-14 **Procedure To Challenge Utility Bills**

A. All bills tendered for Town utility services are presumed to be correct. A customer who believes a utility bill or any charge related to his/her utility service is incorrect shall:

1. Immediately contact the Town Utility Billing Division and report the incorrect charge or bill.

2. Upon review of the information, a meter reader shall be sent to verify the meter is functioning or determine if there is a malfunction or observable problem.

3. If the meter is found to be malfunctioning, Utility Billing staff will immediately contact the customer and send an adjusted billing statement within five (5) working days.

4. If the meter is found to be functioning, the Utility Billing staff will advise the customer and review possible reasons for the amount of water used. It is the responsibility of the customer to identify the actual cause and it is not the Town's responsibility to remedy problems other than those related to the meter.

5. If the customer still feels the meter is malfunctioning despite the inspection by the meter reader, the customer will be provided the option of having the meter removed and tested at his/her expense based on the Town's actual cost. The customer shall pay the testing fee prior to the meter being sent for testing.

6. The customer shall be provided with a list of at least two (2) qualified independent meter testing firms to select from when he/she completes the "meter test form" and pays the fee to start the meter testing process.

7. Upon receipt of the test results of the independent firm that the meter is malfunctioning, the Town Utility Division will, within five (5) working days, refund the cost of the test and adjust the customer's billing statement accordingly.

8. Upon receipt of the test results of the independent firm that the meter is functioning properly, no refund or billing statement adjustment shall be made.

9. If the results of the meter testing determine the meter is undercharging the customer, no refund or bill adjustment shall be made.

10. If the customer continues to have a reasonable belief that the meter is malfunctioning, he/she may contact the Town and arrange to meet with the Town Manager or designee to discuss the disputed bill and the grounds for said dispute. Following the meeting, the Town Manager or designee shall determine whether the utility bill is correct or whether an adjustment in the bill is appropriate. The determination shall be provided in writing to the customer by mail. The Town Manager or designee's determination shall be final.

11. The Town Manager, may, at his/her discretion, authorize a one-time adjustment for unanticipated leaks, such as a major pipe break on the customer's property. A one-time adjustment is defined as being authorized on/for the same property, not owner, once every five (5) years.

12. An "extreme utility bill," defined as a utility bill at least five (5) times greater than the customer's average monthly bill based on the previous six (6) month period for his/her property, shall go through the above outlined challenge process to dispute the bill. If no definite results are found after the meter is tested and properly inspected, the Town Manager may, at his/her sole discretion, authorize a utility bill reduction in ten percent (10%) increments up to fifty percent (50%), but in no case shall the Town Manager have the authority to waive the entire utility bill. If the utility bill is reduced by any percentage, the adjustment shall be defined as a one-time adjustment which equates to once every five (5) years for said property, not owner.

B. Disputing a bill or contacting the Town regarding a bill shall not relieve the customer of the obligation to make a timely payment as specified by Section 13-1-4 or preclude the Town from terminating utility service or taking any other action permitted by this Chapter or otherwise. The customer shall continue paying the monthly utility bill while the utility bill dispute process is being followed by the Town.

Section 13-1-15 Right To Enter; Inspections

A. 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 Code or any other law, rule, regulation or order of any entity having jurisdiction there over and for the enforcement of this Article.

B. Provision shall be made for regular inspection of the Town's facilities used in providing utility service and when required by this Code or any other law, rule, regulation or order of any entity having jurisdiction there over, for the inspection of premises receiving utility service for purposes related to the provision of utility service.

Section 13-1-16 Miscellaneous

A. 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 in Articles 13-1, 13-2, 13-3, 13-4, 13-5 or 13-7, the provisions of those Articles shall apply.

B. "Utility service" shall mean water service, electric service, sewer service and trash and garbage collection provided by the Town.

C. The services provided for under this Chapter are limited to the Town's equipment ability and capacity. This Chapter shall not create any liability nor impose any affirmative duty upon the Town, its officers or employees. Nothing herein shall mandate the Town to secure new sources of revenue or allocate existing funds in any particular manner.

D. 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

ARTICLE 13-2 GARBAGE AND TRASH SERVICE *

13-2-1 Definitions *Ord. 1142-8/14
13-2-2 Purpose
13-2-3 Responsibilities of the Public Works Director
13-2-4 Hours of collection
13-2-5 Authority to collection
13-2-6 Solid waste collection service mandatory
13-2-7 Customer responsibilities - General
13-2-8 Types of service
13-2-9 Enclosures
13-2-10 Miscellaneous services
13-2-11 Unobstructed passage in streets and alleys
13-2-12 Receptacles – General requirements
13-2-13 Town ownership of Town-provided containers
13-2-14 Construction and demolition materials
13-2-15 Residential collection requirements
13-2-16 Automated residential solid waste and recycling collection

*Ord. 1127-12/13

13-2-17 Residential bulk waste collection
13-2-18 Commercial collection requirements
13-2-19 Prohibited substances
13-2-20 Prohibited acts
13-2-21 Abatement of violations
13-2-22 Solid waste license required for use of public roads and alleys by solid waste collection vehicles
13-2-23 License exceptions
13-2-24 License application
13-2-25 License conditions
13-2-26 Vehicle requirements
13-2-27 Container requirements
13-2-28 Seizure and impoundment of containers
13-2-29 Reports
13-2-30 Prohibited practices
13-2-31 Causes for denial, modification, or revocation
13-2-32 Denial of license – Appeal
13-2-33 Notice of license violations – Opportunities for cure; termination; appeal
13-2-34 Interim solid waste license

Article 13-2 SOLID WASTE

Section 13-2-1 Definitions

For the purposes of this article, the following words, terms and phrases shall have the meanings defined by this section, except where the context clearly indicates a different meaning:

A. *Automated contained solid waste collection system* means a contained solid waste collection system that utilizes Town-specified solid waste containers and a solid waste collection vehicle equipped with a lifting device.

B. *Automotive parts* means any part or combination of parts of any kind of motor vehicle, including but not limited to tires, batteries, seats, engines, fuel tanks, doors, auto glass and upholstery.

C. *Authorized solid waste collector* means the Town or any contractor operating within the Town under a valid solid waste service permit or license.

D. *Brush* means tree limbs and shrubbery clippings not exceeding three feet in length.

E. *Bulk waste* means wooden and cardboard boxes, crates (except as used to contain clippings, cactus or matter which, according to the provisions of this article, will be collected by the Town), appliances, furniture, machinery, automobile parts and all other non-vegetative matter, which by reason of size or shape are not readily containable. Bulk waste also includes tree trunks, branches or limbs, regardless of length, which are ten or more inches in diameter.

F. *Construction and demolition waste* means all debris, rubble, soil and excess materials from any construction, demolition, repair or remodeling operations, whether on private, public, residential or commercial premises, whether to the primary structure or any other structure, and whether produced by the work or at the direction of the property owner, contractor, subcontractor, agent, or any other party.

G. *Commercial solid waste* means any solid waste produced by the operation of or as a by-product of any business, without regard to whether the business is licensed in the Town, or whether the business activity is conducted in a public business, private residence, within the Town, or any other location.

H. *Commercial solid waste generator* means any person in charge of, owning, leasing, renting or occupying any business, industrial or commercial building other than a private residence, including, but not limited to a store, office, factory, hotel, tourist court, mobile home park, motel, motor court, motor hotel, trailer court, apartment complexes, condominiums, townhouses and similar configured housing complexes, apartment hotel or residential building ordinarily leased for a period of less than three months. *Ord. 1142

I. *Containable solid waste* means all putrescible and non-putrescible solid wastes, including but not limited to, wrapped garbage, wrapped small dead animals, wrapped or boxed ashes, wastepaper, excelsior, rags, bottles, crockery, bedding, clothing, carpets, leather, tin cans, metal scraps, small mechanical parts, shavings, floor sweepings, grass and weed clippings, twigs, tree limbs not exceeding four feet in length, and other similar waste and debris.

J. *Contained solid waste* means all solid waste placed in containers for disposal.

K. *Contaminated materials* means any materials which, when prepared for one of the acceptable forms of collection described in this article, contain materials which are not acceptable under that particular form of collection.

L. *Filth* means manure, excrement, or similar substance.

M. *Fly-tight* means the lid of the container must fit flush around all contact points and prevent entry of flies or rodents.

N. *Garbage* is putrescible and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

O. *Hazardous material* means any chemical, compound, mixture, substance or article which is designated by the U.S. Environmental Protection Agency or appropriate agency of the state to be hazardous, as that term is defined by or pursuant to federal or state law. Hazardous material includes but is not limited to medical wastes, herbicides, pesticides, explosives, and radioactive, toxic, flammable or corrosive materials.

P. *Household hazardous waste* means any waste that would otherwise be a hazardous waste pursuant to Arizona Revised Statutes, Title 49, and 40 Code of Federal Regulations, Part 261 but is excluded as a hazardous waste because it is generated by the normal day-to-day activities of households.

Q. *Imminent health* or *safety hazard* means condition of real property, solid waste or recycling container that places a person's life, health, safety or property in high risk of peril when such condition is immediate, impending on the point of happening and menacing.

R. *Incipient hazard* means condition of real property that can become an imminent or health hazard if further deterioration occurs that can cause unreasonable risk of death or severe personal injury.

S. *Licensed Hauler or Licensee* means a person with a current license issued by the Town of Wickenburg for commercial or industrial recycling or solid waste management.

T. *Litter* means all garbage, waste and debris not properly prepared for collection under this Code.

U. *Medical waste* means materials defined as medical waste by Arizona Revised Statutes.

V. *Metal goods* means appliances acceptable for collection under the Town's metal goods collection program, if any. "Metal goods" shall include refrigerators, freezers, ovens, stoves, air conditioners, washers, dryers and water heaters, and shall specifically exclude smaller household appliances and electronic equipment.

W. *Open area* means any park, street, gutter, sidewalk, sewer, boulevard, alley, greenbelt, square, vacant lot, space, ground or other area where solid waste material may accumulate.

X. *Prohibited substance* means any liquid, solid, or gas with an ignition temperature or flashpoint of less than 200 degrees Fahrenheit, including but not limited to, gasoline, benzene, naphtha, or other flammable or explosive substance; any material having a pH lower than five and one-half or higher than nine or having any other corrosive property that could be injurious or hazardous to Town collection employees or which could cause

damage to equipment; any noxious or malodorous substance offensive to the senses and depriving other properties or a considerable number of persons of the comfortable enjoyment of life or property; or any hypodermic needle or syringe.

Y. *Public Works Director* means the director of the Public Works Department or his/her designee.

Z. *Putrescible materials* means solid waste which is capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for or attracting birds, insects, snakes, rodents or animals capable of transferring a diseased bacterium or virus from one organism to another.

AA. *Recycling container* means a container owned by the Town for use as part of the Town's recycling program, if any.

BB. *Recyclable materials* means solid waste that has been set aside or separated from other solid waste for the purpose of being collected and recycled, and which is, at the Public Works Director's discretion, acceptable recyclable material. "Acceptable recyclable material" may include the following materials if clean and dry: paper, cardboard, chipboard, plastic containers made from polyethylene terephthalate ("PETE") or high density polyethylene ("HDPE"), other plastics #3 - #7, glass bottles and jars, steel food cans, aluminum cans, disposable aluminum bake ware and aluminum foil and other materials determined by the Public Works Director as being marketable.

CC. *Residence* means any structure or premises used as a domicile, dwelling, or habitation including single family dwellings, duplexes, tri-plexes and four-plexes. *Ord. 1142

DD. *Residential solid waste* means household garbage and rubbish produced by residents on or in their residential premises, specifically excluding:

(1) Construction and demolition waste, whether on or off the residential premises, and whether to the primary residential structure or any other structures.

(2) Commercial or industrial solid waste, whether produced at the residence or at any other location.

(3) Hazardous materials.

(4) Body waste.

(5) Manure.

(6) Large animals exceeding 75 pounds

Rev.1/14

* Ord. 1142-8/14

EE. *Residential solid waste generator* means any person in charge of, owning, leasing, renting or occupying any building or buildings used solely for a family or private residential domicile, including but not limited to single family dwellings, duplexes, tri-plexes and four-plexes. * Ord. 1142

FF. *Solid waste* means all wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, wrecked or junked vehicles or parts thereof, brush, and containable rubbish, filth, construction and demolition waste, brush, bulk waste, metal goods and prohibited substances when these terms are not specifically noted in this article.

GG. *Solid waste container* means a container owned by the Town or contracted hauler and made available for use as part of the Town's automated solid waste and recycling collection program.

HH. *Solid waste inspector* means any police officer, code enforcement officer, or other Town employee with authorization from the Public Works Director to inspect public and private properties, to issue citations and to enforce the provisions of this article.

Section 13-2-2 Purpose

The purpose of this article is to (i) protect the health and safety of the citizens of the Town, (ii) protect the environment by establishing minimum standards for the safe and sanitary collection, storage, treatment, transportation, processing, and disposal of solid waste and recyclables generated for collection by the Town of Wickenburg.

Section 13-2-3 Responsibilities of the Public Works Director

A. The Public Works Director, in order to protect the health and safety of the citizens and the environment of the Town, is authorized and directed to implement and enforce the provisions of this Article to control the storage, collection, treatment, transportation, processing, and disposal of solid waste and recyclables. Nothing in this article is intended or shall be construed so as to infringe or supplant the authority of the Maricopa and Yavapai County Health Departments, Arizona Department of Health Services, Arizona Department of Environmental Quality or the United States Environmental Protection Agency in this area pursuant to federal and state laws.

B. The Public Works Director shall make such schedules, rules and regulations concerning the collection, disposal and hauling of solid waste, recyclable materials and other wastes by any party; or relating to the operation of any transfer station, disposal site, recycling or waste reduction program or other similar activities or facilities.

Section 13-2-4 Hours of collection

Hours of collection of solid waste or recyclables by private and municipal collectors shall be regulated by the Town. It shall be a violation of this Article to collect or remove or to cause, permit, facilitate, aid or abet the collection or removal of solid waste or recyclables between the hours of 10:00 p.m. and 6:00 a.m.

For purposes of this section, "*private*" means any entity other than the Town, including commercial, non-profit or otherwise, collecting solid waste or recyclables.

Section 13-2-5 Authority to collect

A. The Town, its duly authorized agents, servants or employees, and Town authorized private collectors, subject to the limitations set forth in the license, franchise, permit or contract, have the exclusive right to collect solid waste.

Rev.1/14
* Ord. 1142-8/14

B. Regular Town refuse collection services may be rendered to areas outside the Town limits at the discretion of the Town Manager and as deemed appropriate by the Public Works Director; out-of-town customers will be charged a fee set by Council resolution.

Section 13-2-6 Solid waste collection service mandatory

A. No person or business establishment within the Town shall be permitted to avoid or refuse to accept solid waste collection service, and the failure of any party to accept such service shall not exempt that party from the payment of the charges for such service. Temporary discontinuance or suspension of solid waste service is permitted for a fee as set by Council resolution, and as allowed under Wickenburg Town Code, Section 13-1-8.

B. In the event that the Public Works Director determines that the Town is unable to reasonably, efficiently, or safely provide collection services to certain residents, establishments or communities such as, but not limited to, proximity of other serviced areas, size or density of development, or terrain, the Town may substitute another means of collection or require the person to seek service from another source until the situation is resolved. At any time, the Town-may require any resident to receive Town residential solid waste collection if the Public Works Director deems the service appropriate. Any person providing such service shall comply with all applicable provisions of this article.

Section 13-2-7 Customer responsibilities—General

Every person, owner, tenant or occupant within the town or otherwise receiving solid waste collection service shall:

A. Provide for the collection, control and disposition of refuse in or upon any and all premises owned, leased or occupied by or for them.

B. Cooperate with such agents or agencies as may be provided by law for the collection, control and disposition of refuse.

C. Maintain and keep clean the alley adjacent to the premises owned, leased or occupied by or for them.

D. Place or cause to be placed all refuse accumulated on the premises, owned, leased, or occupied by or for them in receptacles or containers provided to them.

E. Keep lids for refuse containers down in a closed position at all times in order to prevent flies, except when a container is being filled, emptied or cleaned.

F. Maintain refuse containers of sufficient number to accommodate the refuse and recycling disposal needs of such residence, premises or establishment, as determined by the director.

G. Maintain refuse containers in good repair and in sanitary condition, free of any markings or decals not placed on the containers by the town. Containers that have become unserviceable due to ordinary wear and tear will be replaced by the town at no cost to customer. Notice that a container has been determined to be no longer serviceable through conditions other than ordinary wear and tear, or is being maintained in an unsanitary condition, shall be given as provided in section 66-274. If containers supplied by town require cleaning, painting, or refurbishing, then the cost of such work shall be charged to the customer.

Section 13-2-8 Types of service

A. *Residences.* The Town, at its discretion, shall provide weekly automated residential solid waste collection service and weekly automated residential recycling service. Each residence receiving service under this subsection shall be provided containers for individual use and curbside collection. Additionally, residents may request additional containers for a fee, as set by Council Resolution.

B. *Business establishments.* The Town or an authorized solid waste collector shall provide commercial solid waste collection service to business establishments as required by state, county and Town regulations. If the business establishment is serviced by an authorized solid waste collector other than the Town, the service schedule of no less than two (2) pick-ups per week shall be set by the contractor and customer subject to approval by the Public Works Director.

Section 13-2-9 Enclosures

The Town reserves the right to require commercial solid waste generators and business establishments to utilize Town or private commercial collection sufficient to properly manage the volume of solid waste generated by this business. Containers may be required to be in enclosures that shall be designed in accordance with the provisions of the Town Code and shall be properly accessible and sufficiently sized to accommodate the number of containers for the volumes of solid waste generated. All enclosures shall have proper drainage to prevent accumulation and stagnation of any liquid.

Section 13-2-10 Miscellaneous services

The Town may provide additional or variant services, including, but not limited to, dead animal collection, residential bulk waste and metal goods collection, moving box pickups, or other solid waste related activities at an hourly rate as illustrated in the Town's fee schedule, set by Council Resolution.

Section 13-2-11 Unobstructed passage in streets and alleys

A. It shall be a violation of this Article for any person to permit trees, shrubs or brush growing upon their property to encroach on or over any public right-of-way so as to interfere with the movement of persons or vehicles. It is the responsibility of the responsible party to trim trees or shrubbery on their property and in the adjacent right-of-way back to their property line and allow 18-foot height clearance.

B. It shall be a violation of this Code to have any obstruction, including but not limited to, parked vehicles, within 5 feet of a solid waste or recycling container placed out for collection service or to obstruct the solid waste or recycling collection operations in any other manner.

Section 13-2-12 Receptacles—General requirements

A. It is the duty of every person, or commercial or residential solid waste generator to place or cause to be placed all solid waste accumulating on the premises in suitable receptacles or containers provided by the Town, or an authorized solid waste collector.

B. All materials prepared for collection shall be stored in a Town-approved container until removed by the Town or an authorized solid waste collector, unless those materials are properly prepared for the Town's bulk waste collection service, if any.

C. Solid waste and recyclables shall be stored, collected and hauled for disposal in accordance with Maricopa and Yavapai County Health Codes and Arizona Department of Health Services and Arizona Department of Environmental Quality Regulations.

D. Any person using a Town-provided container shall be required to use and maintain the container as follows:

(1) All solid waste and recycling containers shall be maintained and stored in a sanitary condition. Maintain the container free of intense odors, evidence of flies in any stage of development, and any other nuisance or threat to public health or safety. Any violations of this section are subject to the "Can Cleaning" fee as set by Council resolution.

(2) Customer will be responsible for reporting any container damage or loss to the Town. Refuse collection containers are the property of the Town and the Town shall replace, on a one-at-a-time basis, containers that are in poor state of repair from ordinary wear and tear.

(3) In instances where containers furnished to refuse customers are lost, destroyed or subjected to abuse as an intentional or negligent act or omission of the customer, his or her employees or members of his family, the customer shall be required to pay the pro rata costs of replacement or repair.

(4) Customer shall not damage the container intentionally, or use the container for any purpose other than those specified in this article. Customer shall not use the container in any manner which is unsafe, or which a reasonably prudent person would believe is unsafe.

(5) The lids or covers of any solid waste and recycling containers shall at all times be kept secure in such a manner to prevent intrusion of moisture, infestation of insects, and scattering of solid waste or recyclables. Covers shall be kept closed except when containers are being loaded or emptied.

E. It shall be a violation of this Article for any person not authorized by the Town to remove, collect or disturb the solid waste and recyclables stored in such containers or to remove from a solid waste or recycling container any solid waste or recyclables set out for collection and disposal by the Town or agents of the Town or licensed solid waste haulers. This prohibition does not apply to law enforcement officers acting within the scope of their official duties.

F. It shall be a violation of this Article for any person to utilize the solid waste or recycling containers or receptacles assigned to other persons for the disposal of solid waste or recyclables without their permission. This does not apply to the automated solid waste or recycling collection system where residents share the use of common containers.

G. All boxes, cartons and crates shall be collapsed before being placed in solid waste or recycling containers. Ashes shall be soaked with water to extinguish any live embers and contained in tied bags before placement in solid waste containers.

H. Explosives or flammable materials of any kind shall not be placed in any solid waste or recycling container.

I. Corrosives, reactive, oxidizers, lead acid batteries or any hazardous waste shall not be disposed of in solid waste or recycling containers.

J. Pool chemical containers shall be emptied, rinsed, drained and moisture free prior to being placed in a solid waste or recycling container.

K. All solid waste and recyclables shall be stored in a manner that does not present a health or safety hazard or public nuisance, including but not limited to, the breeding of insects. No person shall place, deposit or allow to be placed or deposited on his or her premises or private property or any public street, alley or right-of-way any solid waste or recyclables except in a manner prescribed in this article. In the event that the violation is not corrected, the violation is considered a public nuisance that may be abated.

L. It is the responsible party's responsibility to properly contain solid waste or recyclables generated on their premises and to keep the area around the container continuously clear and free of all debris. If the property has alley solid waste service, the term "area" includes the alley.

M. It shall be a violation of this Code to place material in any solid waste or recycling container of a volume or weight which prevents the collection vehicle from emptying the container or which damages the collection vehicle or container. Maximum weight of material placed in any 90- to 100-gallon container shall not exceed 200 pounds.

Section 13-2-13 Town ownership of Town-provided containers

A. The Town may place a receptacle or receptacles approved by the Town at each residence or establishment that is authorized or required to receive residential collection service from the Town.

B. Each person or entity which shall contract with, or accept garbage service from the Town, using a Town-owned receptacle, shall, by acceptance of such service, recognize the right of the Town to enter upon the premises of such person or entity to retake possession of the garbage receptacle(s) upon termination of service, or temporary suspension, and shall be deemed to have extended to the Town an express license to so enter the premises for that purpose.

C. The Town will furnish one solid waste and one recyclable container for the accumulation, storage, and collection of solid waste. Additionally, such residents may request additional containers for a fee, as set by Council resolution.

D. If a solid waste or recycling container is in violation of this Article and presents a health or safety hazard, the solid waste inspector shall issue a notice of violation to the responsible party. In the event the violation is not corrected, the violation is considered a public nuisance that may be abated in a method compliant with all Town, County and State regulations. All expenses related to the abatement shall be the billed to the responsible party.

Section 13-2-14 Construction and demolition materials

Construction and demolition solid waste shall not be placed in a solid waste or recycling container. If such construction and demolition solid waste is generated, the responsible party is responsible for the removal and disposal of such solid waste. All construction and demolition solid waste shall be removed promptly and shall not be stored in any location where it may be blown or otherwise dispersed beyond the construction site. In the event that the violation is not corrected, the violation is considered a public nuisance that may be abated in compliance with the procedures set forth in Section 10-5-3(B) of this Code.

Section 13-2-15 Residential collection requirements

A. All residential solid waste generators for whom Town-supplied solid waste service is available shall subscribe to the municipal solid waste service, and shall pay the fee assessed.

B. The Public Works Director may require any residential solid waste generator regularly generating solid waste that exceeds 100 gallons or 200 pounds of solid waste within a collection period to acquire an additional container or containers, subject to the appropriate fee per container, or any resident regularly generating solid waste that requires special handling, to schedule a special bulk waste collection subject to the appropriate collection fees.

C. Only properly prepared materials shall be acceptable for collection under this article.

D. The frequency of contained solid waste collections shall be in accordance with the Maricopa and Yavapai County Health Codes and the Arizona Department of Environmental Quality Regulations.

E. Collection days shall be as designated by the Public Works Director.

F. The Public Works Director shall determine the service level required and method of collection.

G. Only the Town shall be authorized to remove any Town-owned solid waste or recycling container from its assigned location. It shall be a violation of this Code for any other person to remove a container from the address to which it is assigned.

H. Residences receiving collection under any of the Town's collection programs are limited to one empty of the container being serviced, per collection day.

Section 13-2-16 Automated residential solid waste and recycling collection

A. *Proper preparation for collection.* All residential solid waste prepared for collection by the Town's automated residential solid waste collection program shall be prepared for collection as follows:

(1) Containers set out for collection must be placed in the street in front of the house to which they are assigned, with the wheels adjacent to the curb of the sidewalk, and the lid opening toward the street. Where there is no sidewalk, the container must be placed at the edge of the street, within two feet of the pavement or improved road, as applicable. Some areas are designated for alleyway collection, as determined by the Public Works Director. Containers will be placed in alleyway with opening facing the alleyway.

Containers will not be collected from private driveways, or when placed within 5 feet of a vehicle, mailbox or other obstruction to safe collection as determined by the Public Works Director. At no time may containers be left on the sidewalk. All variances require the written authorization of the Public Works Director.

All refuse intended for collection by Town shall be deposited in containers furnished by the Town or licensed solid waste hauler. Such containers, on regular collection days, shall be located at a pick-up point designated by the Public Works Director, which in some instances may be off the customer's property and located on public right-of-way or private right-of-way used by the general public.

The Public Works Director shall designate the pick-up points, taking into consideration any inconvenience to refuse customers and the size and maneuverability of Town collection equipment, provided if a customer is not satisfied as to the designated pick-up point, he or she may appeal in writing to the Town Manager. Upon appeal, the Town Manager shall render his or her decision within fourteen (14) days after receipt of the written appeal.

(2) To ensure containers are placed out on time, containers may be placed at the curb after 6:00 p.m. on the day preceding collection. Containers for street collection shall be placed at the curb for service no later than 6:00 a.m. on the day of collection. Containers must be removed prior to 11:00 p.m. of the day of collection. It shall be a violation of this Code to place or permit containers to remain adjacent to the curb except upon regular collection days. Containers shall be stored, between collection days, on the user's property so as not to interfere with pedestrian or vehicular traffic.

(3) The lids of containers set out for residential solid waste collection must be entirely closed.

(4) All solid waste prepared for residential solid waste collection including grass clippings must be bagged and securely tied to exclude flies and other pests. Loose branches and brush may not be bagged under the condition that the un-bagged material empties readily during normal collection conditions.

(5) The contents of the container must be arranged so that they fall out easily when serviced by authorized collection vehicles. The Town shall not be required to remove any materials which remain in the container after the container has been serviced by the collection vehicle.

(6) All household medical and infectious solid waste, including lancets, syringes and hypodermic needles, must be properly contained before disposing of in the solid waste container. Household and infectious waste must be placed in plastic bags and securely tied before placing in the solid waste container. Lancets, syringes and hypodermic needles must be placed in a rigid, leak-proof and puncture-resistant container with a secured and taped lid and must be clearly labeled identifying the contents before placing in the solid waste container. Depositing or disposing of household medical and infectious waste or lancets, syringes and hypodermic needles in any recycling container is prohibited.

(7) All prescription drugs and medicines shall be disposed of according to the guidelines in this article unless there are specific disposal instructions on the drug label or patient information form, or unless a pharmacy or other licensed agency can provide disposal for such items. Prescription drugs and medication shall not be flushed down the toilet unless instructed by this documentation. If no disposal instructions are provided, prescription drugs and medicine shall be disposed in the household trash. Medications shall be removed out of their original containers and mixed with an undesirable substance. A small amount of water or other liquid shall be added to solid medications to cause the pills or capsules to dissolve. Coffee grounds or cat litter shall be added to liquid medication to absorb the medication. Blister packs shall be wrapped in multiple layers of duct tape or opaque tape. Unused ampules, vials and intravenous fluid bags should not be opened and shall be wrapped with duct or other opaque tape to minimize breakage and then placed in an opaque plastic container, such as an empty yogurt or margarine tub. Medication that has been combined with the undesirable substance shall be placed in a sealable bag, empty can or other container to prevent leaking into the garbage. The top of the container can be duct taped to the bottom of the container for additional security.

(8) Recyclable materials must not be bagged and must be placed in the container in such a manner that they separate under the normal operating procedures of the applicable materials recovery facility.

(9) Only recyclable materials shall be collected by the Town's residential recycling collection program.

Section 13-2-17 <u>Residential bulk waste collection</u>

A. All materials prepared for the Town's residential bulk waste collection program, if such a program exists, shall be prepared for collection and disposed of in accordance with this section.

B. It shall be a violation of this Article to place bulk waste out for collection before collection is scheduled.

C. Bulk waste shall be placed out for collection no later than 6:00 a.m. on the scheduled day of collection.

D. Bulk waste placed out for collection shall be in neat stacks.

E. Bulk waste placed out for curbside collection shall be placed on the resident's property, parallel to the street or curb. The Public Works Director may designate alternative placement and collection points. Bulk waste shall not be placed on the sidewalk or in the street, behind a fence or any obstruction or barrier.

F. Bulk waste shall not be placed within five feet of any fixed object, solid waste or recycling container or in any manner which would interfere with or be hazardous to pedestrians, bicyclists, equestrians or motorists.

G. No more than five cubic yards of brush or bulk shall be collected from a single residence on a scheduled brush or bulk collection date.

H. The amount of bulk waste placed out for collection shall not exceed a total un-compacted volume of 10 cubic yards per fiscal year. The responsible party shall arrange for the commercial transportation and licensed disposal for additional bulk waste over 10 cubic yards per fiscal year.

I. Century plants, cacti, and similar plants which are difficult to handle, or may present a danger to collection employees, shall be contained in boxes or containers after having been cut to lengths of no more than three feet. Any such container or box shall enable municipal collection workers to pick up the container or box without risk of exposure to the contents, and shall weigh, when loaded, no more than 50 pounds per container.

J. Items of bulk waste which are acceptable for normal residential collection are:

(1) Tree limbs and branches less than six feet in length and 8 inch in diameter and palm fronds.

(2) Metal or automobile parts and material less than 50 pounds.

(3) Pipe less than four feet in length and less than 50 pounds.

(4) Household items, furniture, appliances, bicycles, and other durable goods.

(5) Bagged or boxed leaves, weeds, grass, small vegetation clippings and hedge clippings.

(6) Construction and demolition waste generated by a resident less than 25 pounds.

(7) Cardboard boxes.

K. Items of bulk waste which are not acceptable for normal residential collection include:

(1) Tree limbs and branches more than six feet in length.

(2) Metal material in excess of 50 pounds.

(3) Pipe more than four feet in length or over 50 pounds.

(4) Un-bagged leaves, weeds, grass and small vegetation and hedge clippings.

(5) More than 25 pounds of construction and demolition solid waste generated by a resident or any amount generated by a contractor.

(6) Cement, cement blocks, brick, asphalt, stones and dirt.

(7) Lead acid batteries or any hazardous, infectious or medical solid waste.

(8) Metal or automobile parts and material more than 50 pounds.

(9) Automotive tires or tires of any other type.

L. It shall be a violation of this Article to place unacceptable bulk waste items or improperly placed bulk waste items out for collection. The responsible party shall remove and dispose of all bulk waste improperly placed and any unacceptable items of bulk waste at their own expense. The Public Works Director may require that yard waste be separated from other bulk waste for collection in an alternative manner.

M. In the event a violation is not corrected, the violation is considered a public nuisance that may be abated.

Section 13-2-18 Commercial collection requirements

A. All commercial solid waste generators shall maintain their alleys and the area surrounding the solid waste containers free from solid waste and other potential hazards to the public health, safety, or welfare. Where unusual or inordinate waste material is generated, special collections shall be arranged with the Town.

B. Commercial establishments may, by contract, receive Town solid waste collection services and Town-owned or contractor-owned containers. These containers shall be positioned by the Town no more than 300 feet from an entrance to the commercial structure as designated by the commercial solid waste generator and approved by the Town. Collection employees shall at all times have convenient accessibility to said containers.

C. All commercial solid waste prepared for commercial solid waste collection shall be prepared in accordance with this section. This section shall apply to all business establishments serviced within the Town of Wickenburg, whether serviced by the Town or any other authorized solid waste collector. Business establishments shall be required to contract with an authorized solid waste collector to dispose of all waste produced onsite.

Section 13-2-19 Prohibited substances

A. No person shall deposit or cause to be deposited in any solid waste container which is serviced by the Town any prohibited substance as defined in this article. The Public Works Director may, by special agreement, contract to haul prohibited substances when placed in special containers and clearly labeled. Unless the Public Works Director has contracted by special agreement to haul the prohibited substances, it is the responsibility of the generator of such substances to ensure their removal.

B. Construction and demolition waste, defined in this article, shall not be placed in solid waste containers. Removal of construction waste shall be the responsibility of the owner of the real property upon which such waste is generated. Small quantities of construction and demolition waste may be collected through the bulk waste program as per the conditions of that program.

C. Unacceptable materials that will not be collected under this article may subject the producer to a fine under this article and will be the generator's responsibility to ensure their removal. Unacceptable material may be removed by the Town at the generator's expense as set forth in this article. Unacceptable material may be collected through special collection events that are periodically scheduled by the Public Works Director.

D. Prohibited materials. The following materials are unacceptable for collection under any collection program described in this article:

(1) Improperly prepared materials means any acceptable material that is not properly prepared for collection. "Improperly prepared for collection" shall include otherwise acceptable materials which are set out for collection at the wrong time or in the wrong place.

(2) Tires and other automotive parts. No tires or other auto parts greater than 50 pounds shall be acceptable. "Automotive parts" includes any part or combination of parts of any kind of motor vehicle, including but not limited to tires, batteries, seats, engines, fuel tanks, doors, auto glass, and upholstery.

(3) Dirt, rock, masonry, soil, sod, gravel, cement, concrete, masonry blocks, bricks, tile or any other similar materials exceeding 50 pounds shall not be acceptable.

(4) Gardening and landscape business waste. No landscapers, tree trimmers, lawn maintenance businesses or similar operators may dispose of yard-waste or any other solid waste in solid waste containers unless the waste is generated solely from the grounds of the property and the property owner or manager has approved such disposal.

(5) Fire hazards. No hot ashes, hot cinders, burning matter, loose sawdust, flammable or volatile liquids, or any other material which presents a fire hazard shall not be acceptable.

(6) Hazardous material.

(7) Medical waste.

(8) Contaminated materials.

Section 13-2-20 Prohibited acts

In addition to all other requirements set forth in this Article, it shall be a violation of this Article to:

A. Place or cause to be placed any solid waste upon any public or private property not owned or under the bulk waste generator's control;

B. Place or cause to be placed in a solid waste container any garbage, waste, rubbish, containable rubbish, filth or dead animal which is not contained within a securely fastened leak-proof plastic bag, unless otherwise exempted by this article;

C. Place or cause to be placed more than a limited amount of filth in a solid waste container; as established by the Public Works Director;

D. Place or cause to be placed any solid waste in a container not owned or maintained by said property owner;

E. Fail to restrain any vicious animal and prevent interference with collection employees acting in the course of their duties;

F. Bury, dump, dispose or release upon any street, alley, right-of-way or public land, any solid waste or recyclables including construction and demolition solid waste, unless otherwise permitted in this Article.

G. Fail to remove the construction and demolition waste from the premises within 30 days from the date on which it was placed upon the premises, or not later than the final building inspection, the clearance of public utilities, or the issuance of a certificate of occupancy, whichever comes first.

H. Burn solid waste except in incinerators that 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 United States Environmental Protection Agency.

I. Interfere with authorized collection of solid waste in any way.

J. To knowingly collect, place or cause to be placed or collected any hazardous waste or similar materials from any container or any public or private property, except as specifically permitted by the Arizona Department of Environmental Quality or the United States Environmental Protection Agency.

K. Collect, transport or receive any solid waste or other wastes within or upon any public or private streets in the Town, or anywhere in the Town, except in leak-proof containers or vehicles so constructed that no solid waste or other wastes leak or sift through, fall out or be blown from such container or vehicle. Any person collecting or transporting any solid waste or other wastes shall immediately pick up all solid waste or waste which drops, spills, leaks or is blown from the collecting or transporting container or vehicle, and shall otherwise clean the place onto which any such solid waste or wastes were dropped, spilled, blown or leaked.

L. Deposit or cause to be deposited, in any recycling container, anything other than acceptable recyclable materials.

M. Remove, collect, or disturb solid waste in a container that is set out for collection for the purposes of recycling or disposal by the Town, its agents, unless authorized by the owner of the solid waste.

N. Remove, collect, or disturb recyclable materials deposited for collection at any of the Town's designated recycling drop-off and collection centers. Town employees acting within the scope of their employment are not subject to the prohibitions described in this section.

Section 13-2-21 Abatement of Violations

A. The owner of record, as recorded in the Maricopa or Yavapai County Recorders' Office records of the property at which a violation of this article exists, may be presumed to be a person having lawful control over any building, structure or parcel of land. If more than one person shall be recorded as the owner of the property, said persons may be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land.

B. If a responsible party served with a notice of violation or citation by the Town fails to correct the violation within the period specified, the Town may correct or abate the condition as described in the notice and, in addition to any fine which may be imposed for a violation of this article, the responsible party shall be liable for all costs which may be assessed pursuant to this article for the correction or abatement of the condition.

C. If in the opinion of the Public Works Director the condition constitutes an imminent health or safety hazard, the Public Works Director may immediately abate the hazard without notice. Such abatement of an imminent health or safety hazard shall be limited to the minimum work necessary to remove the hazard.

Section 13-2-22 Solid waste license required for use of public roads and alleys by solid waste collection vehicles

It is a violation of this Article for any person or entity to collect and transport, or cause to be collected and transported, any solid waste on or along any public street or alley in the Town without such person or entity obtaining and maintaining a solid waste license from the Town for the period during which such solid waste is to be collected and hauled on or along any such public street or alley unless excepted from the provisions by law. For the purposes of this section, solid waste shall also include recyclable materials.

Section 13-2-23 License exceptions

The provisions of this article shall not be applicable to any person or entity collecting and transporting solid waste on or along a public street or alley in the Town when:

A. Persons who collect, transport or dispose of medical waste, infectious waste, hazardous waste, toxic waste or any other similar category of solid waste for which the person has obtained a required state, county or federal permit to engage in such activities.

B. This exemption shall not extend to collection, transportation or disposition of materials not enumerated herein.

C. Such person is an owner or occupant of property from which solid waste is taken to a designated recycling point within the Town to the extent such trash is eligible for deposit at such recycling point;

D. Such person is an owner or occupant of property wherein such person has or has caused to be generated small amount of nonhazardous building materials from time to time and transports such materials in his or her own vehicle to a proper point of disposal;

E. Persons who engage in the activities described in this article only secondarily or incidentally to other services or activities (e.g. lawn services, tree trimming services, contracting, etc.).

Section 13-2-24 License application

The Town Public Works Director has the authority to issue Commercial Hauler Licenses. A class A License is required for persons providing commercial or industrial solid waste management services alone or in conjunction with commercial or industrial recycling. A Class B License is required for persons that solely provide commercial or industrial solid waste management services in the Town. A Class C License is required for persons that solely provide commercial or industrial recycling.

Applicants for a solid waste license, or for annual renewal thereof, shall file a Town application form to include the following:

A. The name(s), local address, permanent home and business address and telephone number of the individual(s) applying for the license and the organization or persons on whose behalf the application is completed;

B. The name(s), business address and telephone number of all owners, partners, general managers and principal officers;

C. Evidence that the applicant possesses the adequate equipment and necessary qualifications to collect, transport and dispose of the solid waste in a manner satisfactory to the Public Works Director and in conformity with all applicable federal, state, county and Town laws, rules and regulations;

D. A description of any violations of a Solid Waste License within the last three (3) years;

E. Other information as the Public Works Director may require verifying the applicant's qualifications and information submitted in the application. Such information may include an audited financial statement and other indicators of financial stability of the applicant;

F. A nonrefundable license application fee as established by Council resolution.

G. In consideration for the right to use the public rights-of-way within the Town to operate a commercial or industrial recycling or solid waste management service, a person providing such services shall pay an annual license fee, in consideration for the right to use the public rights-of-way, as established by Council Resolution. Annual license fees shall be paid within ten (10) days from issuance of the License and within thirty (30) days prior to each subsequent anniversary date of the issuance of the License to renew.

H. Required insurance verification.

Section 13-2-25 License Conditions

A. A License is not effective until applicant has executed the License.

B. The Public Works Director shall issue a solid waste license to each applicant upon satisfactory submittal of a license application, insurance and payment of fees. Application for renewal shall be submitted to the Town at least 30 days prior to the annual expiration of the current license.

C. License is for one (1) fiscal year period.

D. Licenses are nontransferable.

E. Licensee is to comply with all applicable laws and regulations.

F. Licensee is to comply with the hours of collection established by the Public Works Director.

G. The Licensed hauler shall indemnify and hold the Town harmless from any loss, harm, claim, cost or liability of any kind arising out of operation of the Licensee's business. The Licensee shall reimburse the Town for all costs including litigation costs and attorney fees in connection with any such claim or liability.

H. Licensee consents to allow the Town's authorized representatives to examine any property or records of the Licensed Hauler which relate to license compliance, at all reasonable times. Licensee may identify confidential records which may impact competition to be excluded from inspection.

Section 13-2-26 Vehicle requirements

All vehicles used for solid waste collection and transportation within the Town must have all required vehicle licenses or certificates in place at the time of initial license application and each license renewal. Vehicles may be inspected by the Public Works Department or the police department at any time on a random basis during the term of the license. All vehicles must meet the following requirements throughout the term of the license:

A. Vehicles must be in good condition and repair and comply with current Arizona Department of Transportation standards. The bodies shall be of readily cleanable construction and watertight. A current garbage hauler license issued by the Maricopa and/or Yavapai County Health Departments must be maintained for all vehicles.

B. Vehicles shall be maintained and operated in a clean and neat manner so as to prevent solid waste from spilling, leaking and blowing from the container onto the roadway;

C. All open top roll-off containers must be covered or tarped when in transit to prevent solid waste or contents from spilling or blowing from the container onto the roadway;

D. Vehicles shall be equipped with an approved backup protection device;

E. The outside of each vehicle must be clearly identified with the name and phone number of the licensee operating the vehicle. All letters shall be no less than three (3) inches in height, legible from a distance of ten (10) feet and shall be displayed on both sides and rear of the vehicle. Each vehicle shall additionally display one Town-provided decal, affixed permanently and clearly visible on the driver's side door. Only vehicles with a Town decal may be used in the performance of the license.

Section 13-2-27 Container requirements

A. Licensee shall have joint responsibility with the solid waste customer to keep and maintain sufficient standard commercial containers as to accommodate the disposal needs of the establishment.

B. Containers may be inspected annually. If the container fails to meet such standards as set forth herein, the Public Works Director may issue a notice of violation to the responsible party by means of tagging the container and delivery of a Notice of Violation in person or by first class certified mail, return receipt requested. Any violation not addressed within seven (7) calendar days may result in a civil sanction as set by fee schedule. Each day that the violation continues is a separate offense.

C. Licensee shall at all times maintain its containers, roll-off bodies and solid waste compactors in sanitary conditions and good repair as may be determined by the Public Works Director. All licensee-owned containers, roll-off bodies and solid waste compactors shall be painted and have the licensee's name and telephone number legibly identified with lettering at least three (3) inches in height and legible from a distance of ten (10) feet.

D. Licensee shall service only containers, roll-off bodies or solid waste compactors consistent with the license issued under this article. The commercial containers, roll-off bodies and solid waste compactors shall be located on the customer's property so as not to interfere with vehicular or pedestrian traffic and shall be in conformance with all license and Town Code requirements.

E. If a violation presents a health or safety hazard in the judgment of the Town, the Public Works Director may remove the container and dispose of it at the responsible party's expense.

Section 13-2-28 Seizure and impoundment of containers

A. In addition to any other penalties set forth in this Article, any solid waste container which is placed or maintained at a commercial, industrial, or multi-family establishment in violation of any Town or state law may be seized and impounded by the Town, at the owner's expense. Prior to the seizure and impoundment of any solid waste container, the Town shall conspicuously post upon said container a notice of violation which sets forth the specific violation and the date in which the container will be seized if the violation has not been corrected. The notice of violations shall be posted at least ten days prior to the seizure of the container.

B. The owner of any container which is impounded pursuant to the provisions of this section shall have 30 days to pay the Town cost of seizure and storage, as set by Council resolution, to retrieve the container. If the owner of a container has failed to pay the applicable cost or failed to retrieve the container within 30 days of its seizure, the Town is authorized to dispose of the container upon such condition and terms as determined by Town.

Section 13-2-29 Reports

A. All licensees under this division shall provide two copies of the quarterly report; one to the Town Clerk and a second to the Public Works Department with the following information, in writing, each calendar quarter, or portion thereof, that the license is in effect:

(1) The number of customers being serviced within the Town limits itemized as follows:

a. Single-family residential accounts.

b. Multi-family accounts.

c. Commercial/industrial accounts.

(2) The total number of containers being serviced.

(3) The total number of tons of solid waste collected and sites where deposited.

(4) The total number of tons recycled and sites where deposited.

B. The reports shall be submitted not later than the last day of the month following the end of the quarter. All reports submitted pursuant to this section shall remain confidential to the extent allowed under federal and state law.

C. Upon the written request of the Public Works Director, licensee shall provide all other information as may become necessary to conform or assist in conforming to all applicable federal, state, county, or Town laws, articles resolutions, rules and regulations concerning solid waste, recycling, source reduction or similar activities.

Section 13-2-30 Prohibited practices

It shall be a violation of this Article and a violation of the terms of the license issued for any licensee to engage in any of the following practices:

A. Failure to comply with any provision of this article or of a license between the Town and licensee.

B. Provision of solid waste collection services to residential and commercial waste generators in the Town without a license provided under the provisions of this article, and unless such license is in full force and effect.

C. Failure to comply with any of the provisions of Title 49, Arizona Revised Statutes or Arizona Administrative Code, Title 18, Article 8 or any applicable county regulation.

D. To contract, combine or conspire with one or more other licensees under this article or persons for the purpose of restraining competition or limiting competition for the provision of solid waste collection services to commercial generators.

E. To engage in predatory pricing practices in violation of the Arizona Uniform Antitrust Act.

F. To provide solid waste collection services to any single family dwelling units or accounts without a written agreement executed by the Town.

Section 13-2-31 Cause for denial, modification, or revocation

A. Licenses may be denied, modified, or revoked by the Town after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation, or false statement contained in the application.

(2) Any material violation of this article including payment of fees, or failure to meet any other licensing requirements after notice and opportunity to cure within the reasonable time specified by the Town.

(3) Conducting a business in violation of any federal, state, county or local law, including Title 49 Arizona Revised Statutes.

(4) The licensee is convicted of untrue, fraudulent, misleading or deceptive advertising.

(5) The licensee is a corporation and is no longer qualified to transact business in the State of Arizona.

(6) Willful, grossly negligent, or repeated violations of this article, the license, or any other applicable law or regulation relating to the provision of solid waste collection services.

B. A license shall not be revoked if the licensee's violation of the license is the result of force majeure.

Section 13-2-32 Denial of license—Appeal

A. Any decision by the Public Works Director to deny an application shall be in writing and set forth the findings and reasons for the decision. The decision shall be mailed to the applicant.

B. Any aggrieved person may appeal a decision by the Public Works Director to deny a license application.

C. The appeal shall be filed with the Town Clerk no later than 15 days after receipt of the Public Works Director's decision, and shall consist of a written statement fully describing the grounds for appeal.

D. The Town Clerk shall schedule a hearing within 30 days of receipt of the appeal, and notice shall be mailed to the appellant.

E. The Town Manager shall preside over a Hearing on the appeal.

F. Following a Hearing on the appeal, the Town Manager shall render a written decision on the appeal, setting forth the findings and reasons for the decision.

G. Any aggrieved person may appeal the Town Manager's decision to Superior Court.

Section 13-2-33 Notice of license violations—Opportunities for cure; termination; appeal

A. If the Public Works Director determines that a licensee is in violation of this Code or the license, the Public Works Director may:

(1) Find that the licensee is in violation of the terms of the license and order corrective action; or

(2) In the case of a material violation, terminate the license, following a Hearing.

B. Notice of the violations shall be served by certified mail to the licensee and shall set forth the nature of the violation. The licensee shall:

(1) Cure any such violation within the time specified by the Town or take reasonable steps to cure said violation and diligently continue such efforts until said violation is cured. Licensee shall report to the Town, in writing, at ten (10) day intervals as to its efforts, indicating the steps taken to cure said violation and reporting the licensee's progress until such violation is cured.

(2) Within twenty (20) days of receipt of such notice, respond to the Town in writing, if the licensee contests the Town's determination that a violation has occurred. The response should include such information or documentation as necessary to support the licensee's positions.

C. If the licensee in its response contests the Town's determination that a violation has occurred within fifteen (15) days of the notice, the Public Works Director shall schedule a hearing.

D. Following a hearing, if the Public Works Director determines that the licensee has committed a violation, the determination shall be in writing, including findings of facts and reasons for its decision. The decision of the Public Works Director shall become final unless a licensee requests a public hearing before the Hearing Officer appointed by the council within fifteen (15) days of its receipt of the Public Works Director's decision.

E. If a public hearing before the Town Manager is requested by licensee, it shall be de novo and it shall convene within thirty (30) days of the request. All witnesses shall be sworn and shall be subject to cross-examination; however, formal rules of evidence shall not apply. The hearing Officer's decision, which shall include findings of fact, shall be made not later than twenty (20) calendar days after the conclusion of the hearing. In that decision, the Hearing Officer may:

(1) Find that licensee is not in violation of the license;

(2) Find that licensee is in violation but that such violation was with just cause and waive any penalty that may otherwise be imposed;

(3) Find that licensee is in violation of the terms of the license and requires corrective action;

(4) In the case of a material violation, declare the licensee in violation and revoke the license.

F. In addition to all other rights and powers retained by the Council under this article or otherwise, the Hearing Officer shall have the right to revoke the license and all rights and privileges of the licensee for any of the reasons set forth in this article.

Section 13-2-34 Interim solid waste license

An applicant for a solid waste license whose application has been denied, or a solid waste contractor whose solid waste license has been revoked, may obtain an interim solid waste license to conduct operations pending its appeal to the Council appointed Hearing Officer or to the Superior Court. An application for an interim solid waste license may be submitted and issued in the same manner as for a Commercial Hauler License.

ARTICLE 13-3 SEWER SERVICE

13-3-1 Definitions
13-3-2 Sewer District Established; Connection Required
13-3-3 Responsibility of Officers
13-3-4 Area to be Served
13-3-5 Lateral Extensions to Existing Sewers; Permit Required
13-3-6 Plan for Extension
13-3-7 Specifications
13-3-8 Construction and In Progress Inspection
13-3-9 Extension Rights Reserved
13-3-10 Costs of Extension
13-3-11 Replacement
13-3-12 Acceptance; Ownership; Authorization to Use
13-3-13 Connections; Charges to Developers
13-3-14 Rates
13-3-15 Connection to Sewer Required
13-3-16 Repair or Maintenance
13-3-17 Property Owner Responsible for Cleaning, Repair and Replacement of Building Sewers and Connection
13-3-18 Usage of Sanitary Sewers
13-3-19 Permits
13-3-20 Powers and Authority for Inspection
13-3-21 Determination of Character and Concentration of Industrial Wastes
13-3-22 Discharge of Rain Water or Uncontaminated Water Prohibited
13-3-23 Prohibition of Grease, Oil and Sand
13-3-24 Additional Regulations
13-3-25 Sewage Treatment Facility Expansion/Wastewater Treatment Plant

Section 13-3-1 Definitions * Ord. 1132 (D-OO)

Unless the context requires otherwise, the definitions given in this Section shall be used in the interpretation of this Article, the issuance of permits, the making of charges for service and all other operations of this Article.

A. "B.O.D." (Denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter by weight.
B. "Branch sewer" means an arbitrary term for a sewer which receives sewage from lateral sewers from a relatively small area.
C. "Building connection or sewer tap" shall mean the connection to the public sewer and the extension therefrom of 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.
D. "Commercial services" shall means service for any business, industrial or commercial building other than a private residence, including, but not limited to a store, office, factory, hotel, tourist court, mobile home park, motel, motor court, motor hotel, trailer court, apartment complexes, condominiums, townhouses and similar configured housing complexes, apartment hotel or residential building ordinarily leased for a period of less than three months. *Ord.1142
E. "Developer" shall mean any person or persons engaged in the organizing and financing of a sewage collecting system within an area contributing to a branch, main, or a trunk sewer of the Town sewer system. Such may be either a subdivider or a legally constituted improvement district.
F. "Discharger" shall mean any person that discharges or causes a discharge to a public sewer.
G. "Domestic wastewater" shall mean the water carried wastes produced from non-commercial or non-industrial activities and which result from normal human living processes.
H. "Effluent" shall mean the liquid outflow of any facility designed to treat, convey or retain wastewater.
I. "House connection" shall mean the sewer connecting the building waste drainage system to the public waste drainage system to the public sewer for the Purpose of conveying domestic wastewater.

Rev. 6/96
Ord. 1044/8-09
*Ord. 1032/3-14
*Ord. 1142/8-14

J. "Industrial connection sewer" shall mean the sewer connecting the building sewer or building waste drainage system to the public sewer for the purpose of conveying industrial wastewater

K. "Industrial wastes" shall mean the liquid gaseous, or solid wastes produced as a result of any commercial or industrial operation.

L. "Industrial wastewater" shall mean all water carried wastes and wastewater of the community excluding domestic wastewater and uncontaminated water, and shall include all wastewater from any producing, manufacturing, processing, institutional; commercial, agricultural, or other operation where the wastewater discharged includes significant quantities of wastes of non-human origin.

M. "Lateral sewer" shall mean a sewer which discharges into a branch or other sewer and has no other common sewer tributary to it.

N. "Main sewer" shall mean a sewer which receives sewage from one or more branch sewers as tributaries.

O. "Natural outlet" shall mean any outlet into a watercourse, ditch, or other body of surface or groundwater.

P. "New Construction" shall mean a new building or development for which a Building Permit is issued after September 3, 2008. "New Construction" does NOT include new accessory buildings or alterations or modifications to an existing dwelling. § Ord. 1011-9/08

Q. "Person" shall mean any individual, partnership, committee, association, corporation, public agency, and any other organization or group of persons.

R. "pH" shall mean the logarithm of the reciprocal of the hydrogen ion concentration. A stabilized pH will be considered as a pH which does not change beyond the specified limits when the waste is subjected to aeration. A pH value indicates the degree of acidity or alkalinity.

S. "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

T. "Public corporation" shall mean this state and any political subdivision thereof, any incorporated municipality therein, any public agency of the state or any political subdivision thereof or any corporate municipal instrumentality of this state.

U. "Public sewer" shall mean any sewer dedicated to public use and whose use is controlled by a public corporation.

V. "Rates" shall mean those rates determined by staff or outside professional services using industry standard method and shall include but not limited to the full replacement cost of all assets, staffing needs, operational expenses and any other item to ensure a safe and reliable water utility. Rates shall be set by council resolution.

W. "Residential services shall mean service to any structure or premises used as a domicile, dwelling, or habitation including single family dwellings, duplexes, tri-plexes and four-plexes.

X. "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

Y. "Section" shall mean a section of this Article.

Z. "Septic tank waste" shall mean any sewage from a holding tank such as vessels, chemical toilets, campers, trailers, motor homes, septic tanks and septic haulers

AA. "Sewage" shall mean a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

BB. "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

CC. "Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

DD. "Sewerage" shall mean any and all facilities used for collecting, conveying, pumping, treating and disposing of wastewater.

EE. "Sewerage system" shall mean a network of wastewater collection, conveyance, treatment and disposal facilities interconnected by sewers and owned by the Town.

FF. "Sewer" shall mean a pipe or conduit for carrying sewage.

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

HH. "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in water or other liquids and which are removable by laboratory filtering.

II. "Town" is the Town of Wickenburg, Arizona.

JJ. "Trunk sewer" shall mean a sewer constructed, maintained and operated by the Town that conveys wastewater to Town's treatment facilities and into which lateral and collecting sewers discharge.

KK. "Uncontaminated water" shall mean any wasted water of the community not contaminated or polluted with wastewater and which is suitable or could readily be made suitable for discharge to the municipal storm water drainage system.

LL. "User" shall mean discharger.

MM. "Wastewater" shall mean the water carried wastes of the community derived from human or industrial sources including domestic wastewater and industrial wastewater. Rainwater, groundwater or drainage of uncontaminated water is not wastewater.

NN. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

OO. Symbols and Models:

1. "Cu" shall mean a user's charge for O & M per unit of time.
2. "Cs" shall mean a surcharge for wastewaters of excessive strength.
3. "V_c" shall mean the O & M cost for transportation and treatment of a unit of wastewater volume.
4. "V_u" shall mean the volume contribution from a user per unit of time.
5. "V_t" shall mean the total volume contribution from all users per unit of time.
6. "B_c" shall mean the O & M cost for treatment of a unit of biochemical oxygen demand (BOO).
7. "B" shall mean the concentration of BOD from a user above a base level.
8. "S_c" shall mean the O & M cost for treatment of a unit of suspended solids.
9. "S" shall mean the concentration of SS from a user above a base level.
10. "P_c" shall mean the O & M cost for treatment of a unit of any pollutant.
11. "P_u" shall mean the total contribution of any pollutant from a user per unit of time.
12. "FC" shall mean fixed costs or those costs related to billing and collections such as - meter reader salary, revenue clerk salary, computer operator salary' data processing supplies, postage and cost of forms.
13. "VC" shall mean the variable cost of O & M of the sewer system which are all costs other than as defined in "FC".

Section 13-3-2 Sewer District Established: Connection Required § **Ord. 1011-9/08 (Entire Section) (Ord. 1176-7/17)**

A. Sewer District: For the better protection of the health and convenience of the inhabitants of the Town, real property located within the Town or annexed into the Town in the future is hereby declared to be a Sewer District.

B. Connection Required: Except as provided in paragraph C., all new construction within the Sewer District shall connect to the Town's sewer system and all existing residential and commercial properties shall connect to the Town's sewer system when a Town sewer line is extended to within three hundred (300) feet of the property. Where connection to the sewer system is required pursuant to this Section, the owner of the real property shall cause to be connected to the sewer system all privies, cesspools and open or unconnected drains within one hundred and twenty (120) days of the date of written notice from the Town requiring connection. Such connection shall be in accordance with Town requirements, the cost of connection shall be borne by the property owner and within six (6) months any septic tanks, privies, cesspools, or similar private sewage disposal facility shall be abandoned and filled with suitable material pursuant to County regulations.

C. Exceptions: Connection to the sewer system shall not be required for:

1. An individual single family dwelling when it is determined by the Town Engineer and the Public Works Director or his/her designee that either (i) the dwelling was served by an alternative sewage disposal system as of September 3, 2008, or (ii) the cost of the required extension exceeds the cost of an approved alternative sewage disposal system by four (4) times. ***Ord. 1132**

2. A development, other than an individual single-family dwelling, that is a single-family project, multi-family project or commercial or industrial building of less than 50,000 square feet, when it is determined by the Town Engineer and the Public Works Director that either (i) the project or building was served by an alternative sewage disposal system as of September 3, 2008, or (ii) the cost of the required extension exceeds the cost of an approved alternative sewage disposal system by six (6) times.

3. A development that includes a commercial or industrial building of 50,000 square feet or greater, when it is determined by the Town Engineer and the Public Works Director that either (i) the building was served by an alternative sewage disposal system as of September 3, 2008, or (ii) the cost of the required extension exceeds the cost of an approved alternative sewage disposal system by ten (10) times

§ **Ord. 1011-9/08 *Ord. 1032/3-14**

D. Owner Election to Connect: Owners of real property that are exempt from the requirement to connect to the Town's sewer system may elect to do so, in which event the cost of such connection shall be borne by the owner.

E. State or Federal Law Requiring Connection: Notwithstanding anything contained herein to the contrary, if State or Federal Law requires abandonment of a septic system, connection to the Town's sewer system shall be required at the expense of the affected property owners.

Section 13-3-3 Responsibility Of Officers *Ord. 1132

For the convenience, best administration and operation of the sewer system of the Town, it is hereby made the duty of the Town officers and employees in charge of and operating the Town sewer system to perform the same duties with respect to the operation, management and control of the sewer system as is required of them in the operation and management and control of the water system except as may be otherwise provided in this Code or by resolution or ordinance of the Council.

Section 13-3-4 Area To Be Served

A. The maximum area to be serviced by the proposed sewer main extension and its ultimate extensions shall be determined by the Town Engineer based on local topography and drainage conditions. In the event the area to be serviced by the developer is less in size than the maximum area to be serviced by the proposed sewer main extension and its ultimate extensions, the sewer main extension shall be designed, engineered and constructed to serve the maximum area described heretofore.

B. Except as provided in subsection C of this section, no sewer service shall be provided outside the Town's corporate limits.

C. Sewer service may be provided outside the Town's corporate limits when:

1. Such sewer service was being provided prior to June 1, 1974; or
2. Such sewer service is for the purpose of serving Town facilities; or
3. The developer desiring to cause an extension of the sewer system executes an agreement as follows:
   a. The developer shall agree to annex the property into the -- Town at such time as the Town determines it is lawful and feasible to do so.
   b. The sewer service may be terminated upon the sale of the property for which the sewer service is being provided, unless prior thereto it is annexed into the Town.
   c. The developer causing an extension of the sewer system shall agree to pay all costs for the construction of said extension but may, in part, be reimbursed as provided in Section 13-3-10, subsection B of this Code.
   d. The developer shall warrant the sewer line extensions and upon final inspection, convey same to the Town.

Section 13-3-5 Lateral Extensions to Existing Sewers; Permit Required – *Ord. 1132

A. In cases in which a sewer in existence prior to June, 1974, can serve a customer if a lateral sewer but no other sewer is extended, the Town reserves the right to install such lateral sewer from such existing sewer to such customer's property line at the customer's expense and without engineering other than that provided by the Public Works Director or his/her designee notwithstanding other provisions of this Article.

B. It is unlawful for any person to tap or connect or cause to be tapped or connected, any service drain or other pipe with the sewer system of the Town or to connect their property to or with any such tap, drain or other pipe connected with the sewer system without first applying for and obtaining a permit from the Public Works Director, and payment of the appropriate sewer/wastewater development fee provided for under Chapter 8, Article 8-4 of the Code. It is hereby made the duty of the Public Works Director, before issuing a permit, to investigate and inquire into the sanitary and other conditions of the proposed connections with such sewer system for the purpose of ascertaining whether or not same may be made or installed in a proper and sanitary condition and in accordance with the Plumbing Code, State laws and such specifications as are provided in this Article or as may be adopted by the Council. *(6/96 & 3/99)*

Section 13-3-6 Plan for Extension

A developer who wishes to extend sewer facilities must employ a civil engineer registered in Arizona to perform the field engineering and to prepare detailed plans and specifications for such extension. This engineer shall not be the Town Engineer nor any engineer employed by, retained by or operating as an independent contractor on behalf of the Town. The final detailed plans and specifications for the sewer extension must be approved by the Town Engineer as being within such specifications of the Town as are provided in this Article and as may be adopted by the Council and as are in accordance with good engineering practice, before construction begins. All extensions of sewer mains shall have Council approval prior to the beginning of construction.

Section 13-3-7 Specifications

A. There shall be installed no lateral sewer of a diameter of less than four inches, nor branch sewer of a diameter of less than six inches, nor a main or trunk sewer of a diameter less than eight inches. Further, the Town reserves the right to specify diameters larger than those provided in this subsection.

B. All sewer mains and service lines shall be constructed of polyvinyl chloride ASTM D-3034, SDR-35 or vitrified clay pipe ASTM C-700. *(6/96)*

C. Except for lateral sewers, sewer lines shall be installed only in dedicated rights-of-way along such streets or alleys and in easements for such purpose accepted by the Town.

D. There shall be installed within the developer's area, at the developer's expense, one sewer tap for each potential lateral as determined by the Town Engineer. Further, from each aforementioned tap there shall be installed at the developer's expense, a lateral, in a direction specified by the Town Engineer, to at least the boundary of the dedicated right-of-way of the extension.

Section 13-3-8 Construction and In-Progress Inspection

A. Prior to the start of construction, an offsite improvement permit shall be obtained from the Public Works Department. No such permit shall be issued until plans for the extension have been approved pursuant to Section 13-3-6, Plan for Extension. The cost of said permit shall be determined by Resolution of the Council. The estimated cost of inspections shall be collected prior to issuance of the permit. If the actual cost of inspections exceeds the estimate, the additional amount must be paid to the Town prior to final approval of the extension. If the actual cost of inspections is less than the estimated cost, the overcharge will be refunded. *(6/96)*

B. The construction of sewer line extensions as contemplated in this Article shall meet the specifications, requirements and approval of the Town and such construction shall be subject to in-progress inspection by the Town Engineer or the Public Works Director or his/her designee of Public Works. ***Ord. 1132**

Section 13-3-9 Extension Rights Reserved

The Town reserves the right to install any sewer line extension.

Section 13-3-10 Costs of Extension

A. Except as may be provided in subsection B of this section, the developer causing an extension of sewer lines shall pay in full for all rights of way, easements, engineering, the construction and installation of all lines, pipes, mains and other features necessary for the extension as determined by the Town Engineer. Upon final inspection and acceptance of the improvements by the Town, the developer shall relinquish all rights and interest to the improvement, rights-of-way and all claims for reimbursement by others except as provided in subsection B of this section.

B. When a developer desires to construct a sewer line extension, and said extension includes the capacity to serve more properties than those being developed by the developer (excess capacity); and said excess capacity is to be provided in accordance with Section 13-3-4, subsection A of this Code, the Town may enter into a utility line extension payback agreement to provide for the pro-rata reimbursement by those who subsequently derive benefit from said extension to the developer who caused, and paid for, the installation of the extension under consideration. Such reimbursement shall be accomplished pursuant to a utility extension payback agreement in the form, and with the content, adopted by resolution of the Council. The utility extension payback agreement may be tailored to suit the particular situation, provided however, that the following criteria and administrative procedures shall be complied with.

1. Those who subsequently derive benefit shall be defined as developers or property owners who subdivide or develop land within the sewer service area of the proposed extension and its ultimate extensions as determined pursuant to Section 13-3-4, subsection A of this Code after an offsite improvement permit has been issued for the proposed extension. Excluded from this definition are existing developments which are served by existing sewer lines within the service area of the sewer line extension.

2. Apportionment of the cost shall be based on the designated sewer service area as determined pursuant to Section 13-3-4, subsection A of this Code exclusive of dedicated rights-of-way or easements. The cost apportioned to a given parcel shall be the pro-rated share of the total cost of the project in the ratio of the area of the parcel to the service area of the proposed extension and its ultimate extensions, or, as otherwise established by resolution of the Council.

3. Costs apportioned to lands under the provisions of this subsection shall be collected by the Town from each owner as a prior condition to the provision of sewer service to the property in question.

4. Utility payback agreements shall remain in effect for a specified time period which in no case shall exceed ten years.

5. The Town's Finance Director shall establish and maintain an accounting procedure for the express purpose of administering and monitoring all such utility pay-back agreements.

Section 13-3-11 <u>Replacement</u>

All persons or other entities who create, cause to be built, or build any sewer line extensions shall also pay for any and all such replacements including but not limited to those of street surfacing, curbs or sidewalks, as become necessary as a result of the creation, building or construction of such extensions.

Section 13-3-12 <u>Acceptance; Ownership, Authorization to Use</u>

Except for a lateral extension to an existing sewer as described in this Article, when an extension is completed and approved by the Town Engineer as conforming to the provisions of this Article and to such health regulations as may be otherwise provided, then the Town Council shall, by resolution, accept, approve and authorize the use thereof, provided that the extension shall first have been conveyed to the Town free and clear of any and all encumbrances.

Section 13-3-13 <u>Connections; Charges to Developers</u>

A. The Town shall have exclusive control of connections to sewer line extensions.

B. Building or house connection (sewer tap) charges and monthly sewer service charges within the developer's area shall be made at the rate approved by Council resolution. ***Ord. 1132**

C. Before any tap or connection is made, the applicant/developer shall pay to the Town the applicable sewer/wastewater fee as approved by Council resolution. ***Ord. 1132**

Section 13-3-14 Rates

A. A flat fee charge shall be made to defray fixed costs. The amount of the flat rate charge shall be determined by dividing the total fixed costs by the number of sewer users connected to the sewer system at that particular time.

Formula: Monthly charge = FC divided by the number of sewer users divided by 12.

B. A charge shall be established per each 1,000 gallons of metered water usage to defray the operation and maintenance variable cost. The amount to be charged for normal strength domestic sewage shall be determined by applying actual metered water usage to the following formula:

Cu = VC/(Vt-Vu) i.e. a usage charge shall be equal to the total variable cost divided by the total volume contribution from all users times the volume contribution from that particular user.

C. Any user which discharges any toxic pollutants or makes a contribution which is higher in strength than the normal wastewater shall be assessed a surcharge based on the following formula:

Cs = (Bc (B) + Sc (S) + Pc (Pu)) Vu

Therefore, any contributor that exceeds the concentration of normal domestic sewage in BOD, suspended solids or other pollutant concentrations shall be assessed proportionately to that contribution by the surcharge method.

D. The Town has no industrial users. Prior to connecting an industrial user to the sewer system the Town shall have its industrial cost recovery system of charges approved by the Environmental Protection Agency.

E. The Town shall review and revise, if necessary, not less often than every two years the wastewater contribution of sewer users, the total cost of operation and maintenance of the treatment works, and its approved user charge system in order to maintain the proportionate distribution of operation and maintenance cost among users and adjust the rate accordingly. The user rate system shall generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement parts) of the treatment works.

F. The user charge system shall take precedence over any terms or conditions of agreements or contracts between the Town and users (including industrial users, special districts, other municipalities or federal agencies or installations) which are inconsistent with the federal wastewater treatment regulations.

G. Federal pretreatment requirements will be enforced.

H. It is unlawful to fail to pay any established sewer service charge.

I. Each user will be notified annually by separate mailing, notice in the local newspaper or by message on the regular bill in conjunction with a regular bill, of the rate and that portion of the user charge which is attributable to operating and maintaining wastewater treatment services.

J. Upon approval of the Public Works Director or his/her designee, any individual user may, at the user's expense and subject to the regulations of the Town, install a separate meter in order to determine the quantity of water actually entering the sewer system, and the future sewer charges shall be limited to that water actually entering the sewer system as so determined by the Director of Public Works or his/her designee. ***Ord. 1132**

K. Water meter adjustments to reflect sewer flow:

1. Upon written request by a non-industrial user, the Public Works Director or his/her designee shall determine the average water billed to each such user during the preceding January, February and March. ***Ord. 1132**
2. The average monthly water bill determined in paragraph 1 above shall represent sewage usage for non-industrial users for a 12-month period beginning July 1 of each year.

3. If the Public Works Director or his/her designee determines that adequate water meter information is not available for billing, due to incomplete consumption records such as may occur with new users or users served by private water companies, then the user will be charged the average billing for that user class. ***Ord. 1132**

L. If any customer/user of the Town's sewer system makes a written request for investigation of a malfunction in his water supply system, the Public Works Director or his/her designee shall cause an investigation to be made to determine if the customer's water system is malfunctioning. If the Public Works Director or his/her designee determines that there is a malfunction of the customer's water system and by reason thereof the customer's sewer charges will, or have been, substantially increased, the Public Works Director or his/her designee may instruct the Finance Director to adjust the customer's sewer bill, and water bill if applicable, to reflect past and outstanding charges to the customer. The term "substantially increased" as herein used is defined as an increase of 1,000 gallons or more and any adjustments made shall be in increments of 1,000 gallons. ***Ord. 1132**

Section 13-3-15 <u>Connection to Sewer Required</u>

A. For the better protection of the health, safety and general welfare of the citizens of Wickenburg, all persons owning real property adjoining rights-of-way or easements in which there are pipes, lines or mains of the public sewer system shall cause all privies, cesspools and open and unconnected drains to be connected to the sewer system within ninety days after receipt of written notice from the Town requiring said connection.

B. All development within the Town limits of Wickenburg, but not adjacent to a right-of-way or easement in which sewer lines, pipes or mains have been installed, shall extend the sewer system to the site of the development and cause connection to the sewer except individual single family dwelling when it is determined and found by the Town Engineer and the Public Works Director or his/her designee that the cost of the required extension exceeds the cost of an approved alternative sewage disposal system by four (4) times. ***(6/96)*** ****Ord. 1132***

Section 13-3-16 <u>Repair or Maintenance</u>

A. The Town reserves the right and assumes full responsibility of costs for repair or maintenance of branch, main or trunk sewers.

B. Repair or maintenance of lateral sewers shall be the responsibility of the customer. In the event that such repair or maintenance occasions the breaking of street surfacing, curbs or sidewalks, or occasions excavating in a dedicated right-of-way, the Town reserves the right to make suitable replacements or repairs at the customer's expense.

Section 13-3-17 <u>Property Owner Responsible for Cleaning, Repair and Replacement of Building Sewers and Connections</u>

A. The property owner shall be responsible for the cleaning, unstopping, maintenance and repair of the building connection piping serving his property from his home or building to the public sewer line.

B. 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 owner or his contractor shall obtain a permit from the Community Development/Neighborhood Services Director to do work in a public right-of-way prior to doing the work. ***Ord. 1132**

Section 13-3-18 <u>Usage of Sanitary Sewers</u>

A. No person shall discharge or deposit any of the following waste materials into any Town sewer:

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

2. Any water or waste which may contain more than 100 milligrams per liter, by weight, of fat, oil or grease, exclusive of soap. Provided that up to 500 milligrams per liter may be discharged by permit authorization.

3. Any gasoline, benzene, naptha, fuel oil or other flammable or explosive liquids, solid or gas.

4. Any garbage that has not been properly shredded.

5. Any ashes, cinders, sand, mud, straw, shaving, metal, glass, bones, rags, feathers, tar, plastics, wood, paunch manure or other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the treatment works.

6. Any water or wastes having a stabilized pH lower than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage treatment plant or system.

7. Any water or wastes having a biochemical oxygen demand in excess of 500 milligrams per liter by weight.

8. Any waters or wastes containing more than 500 milligrams per liter by weight of suspended solids.

9. Any waters or wastes having an objectionable color which is not removable in the existing sewage treatment plant process.

10. Any waters or wastes containing a toxic or poisonous substance or any other materials in sufficient quantity to injure or interfere with any waste treatment process, or constitute a hazard to humans or animals, or create any hazard in the receiving stream at the sewage treatment plant.

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

12. Any noxious or malodorous gas or substance capable of creating a public nuisance.

13. Any waters or wastes containing more than 200 milligrams per liter of chlorides. Provided that up to 500 milligrams per liter may be discharged by permit authorization.

14. Any industrial waste having a total kjeldahl nitrogen to BOD ratio greater than 6:100 by weight.

15. Septic tank waste as defined in this Article.

B. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town and any person whereby an industrial waste of unusual strength or character may be admitted into the sanitary sewers by the Town either before or after approved pretreatment or pre-handling and subject to payment thereof by the industry involved.

C. Notice shall be given to the Public Works Director or his/her designee whenever a change in the industrial process of waste discharge is contemplated or when the normal operation of the industry discharging industrial waste into the Town sewer system will be interrupted for three days or longer with no industrial discharge. ***Ord. 1132**

Section 13-3-19 <u>Permits</u>

A. Any person desiring to deposit or discharge, or who is now depositing or discharging any industrial waste into the sanitary sewers shall make application for the disposal of industrial waste to the Public Works Director or his/her designee. The Public Works Director or his/her designee shall approve such applications only when evidence is submitted by the applicant that the discharge into the sanitary sewer will comply with all of the requirements of this Code. ***Ord. 1132**

B. Should any person fail to secure a permit or fail to have his application approved or is subsequently found to be exceeding the limits set forth in his permit, the Town Officer in charge of the sewer system's operations upon twenty-four hour notice, if such person is using Town water, shall disconnect such person's connection with the Town water system and the same will only be reconnected at such owner's expense; and if such person, after twenty-four hours notice, shall have his connection with the Town sewer system severed, such services will only be restored at such person's expense.

Section 13-3-20 Powers and Authority for Inspection *Ord. 1132

A. The Public Works Director or his/her designee and other duly authorized employees of the Town, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this Code.
B. Authority is hereby granted to the Public Works Director or his/her designee after approval of the Mayor and Council to temporarily exclude any industrial waste, whether pre-treated or not, from the sanitary sewers whenever, in the opinion of the Public Works Director or his/her designee, such action is necessary for the purpose of determining the effects of such wastes upon the sewage system and sewage treatment plant or for the purpose of preventing detrimental effects to said system and plant or to the receiving stream.

Section 13-3-21 Determination of Character and Concentration of Industrial Wastes

A. The industrial waste of each person discharging same into the Town sanitary sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes shall be made quarterly, or more often as may be necessary, by the Public Works Director or his/her designee or his authorized assistants. ***Ord. 1132**

B. Samples shall be collected and composited in such a manner as to be representative of the actual quality of the industrial wastes. The laboratory methods used in the examination of said wastes shall be those set forth in Standard Methods for the Examination of Water and Wastewater - as published by the American Public Health Association, the most recent edition, a copy of which is on file with the Town Clerk for inspection by any interested parties. ***Ord. 1132**

C. The determination of the character and concentration of the industrial wastes by the Public Works Director or his/her designee, or his authorized assistants, shall be binding as a basis for charges. ***Ord. 1132**

D. Total costs incident to the supervision, inspection, sampling and analyzing of industrial wastes shall be included in any special charge made to persons discharging industrial wastes into the Town sanitary sewers.

Section 13-3-22 Discharge of Rainwater or Uncontaminated Water Prohibited

No person shall discharge or cause to be discharged any rainwater, storm water, groundwater, street drainage, subsurface drainage, yard drainage, water from yard fountains, ponds or lawn sprays or any other uncontaminated water into any sewerage facility which directly or indirectly discharges to facilities owned by the Town.

Section 13-3-23 Prohibition of Grease Oil and Sand *Ord. 1132

Interceptor Units Shall Be Installed. Grease, oil and sand interceptor units shall be installed in compliance with the Uniform Plumbing Code when, in the opinion of the Public Works Director or his/her designee, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil or sand; except that such interceptor units shall not be required for residential users. All interceptor units shall be of the type and capacity approved by the Public Works Director or his/her designee and shall be so located to be easily accessible for cleaning and inspection. Such interceptor units shall be inspected, cleaned and repaired regularly, as needed, by the user at user's expense. The user shall keep and maintain records for the preceding three years that document all cleanings, repairs and proper disposal from all such interceptor units. Such records shall be available for inspection by the Public Works Director or his/her designee.

Section 13-3-24 Additional Regulations

The Council may from time to time, by resolution, prescribe such additional regulations and requirements governing connections to and the use of said sewer system as may be proper or expedient.

Rev. 11/95
***Ord. 1132/03-14**

Section 13-3-25 Sewage Treatment Facility Expansion/Wastewater Treatment Plant

In compliance with the Arizona Department of Environmental Quality Regulations (ADEQ), the setback area established in ADEQ Rule R18-9-B201(I) for the Sewage Treatment Facility/Wastewater Treatment Plant located at the alignment of South Tegner Street is decreased to three hundred feet (300') as measured from the Disposal Component closest to an adjacent dwelling or workplace and such adjacent dwelling or workplace. No dwelling, workplace, Sewage Treatment Facility/Wastewater Treatment Plant or Disposal Component of the Sewage Treatment Facility/Wastewater Treatment Plant shall encroach into the setback area.

Article 13-4 WATER SERVICE

13-4-1	Discontinuance of Service
13-4-2	Rates
13-4-3	Payment
13-4-4	Connect Charge
13-4-5	Meters ◘ Ord. 1007-7/08 § Ord. 1011-9/08 *Ord. 1133-3/14
13-4-6	Liability
13-4-7	Regulations Part of Contract
13-4-8	Restriction on Resale of Water

Section 13-4-1 Discontinuance of Service

A. Any person who desires to discontinue the use of water service shall file written notice with the Town at least three days in advance of intended termination of service. Responsibility for water service consumed extends to the time of departure or the time specified for departure, whichever occurs last.

B. The Town may discontinue water service upon any of the following conditions:

1. To prevent fraud or abuse.

2. Disregard of Town rules pertaining to water service.

3. Emergency repairs.

4. Insufficient supply caused by factors outside the control of the Town.

5. Legal process.

6. Direction of public authorities.

7. Local emergency requiring emergency measures.

8. Tampering with meter or other equipment by the consumer.

Section 13-4-2 Rates

The Council shall by Resolution determine the monthly rate to be paid for water service.

Section 13-4-3 Payment

A. Billings from the Town to its customers for water service shall be due and payable within fifteen days after mailing and delinquent thereafter. Water customers not paying in full their billing for water services, within fifteen days from the date the water bill is due, shall immediately thereafter have water service to the establishment for which the unpaid billing exists disconnected. Service shall not be reconnected to such customer until:

1. The delinquent amount is paid in full;

2. A reconnect fee of thirty dollars is made to the Town; and

3. A deposit for future billings is made which deposit shall be an amount double the average monthly billing for the last six months prior to service cut-off, or the average of the number of months the meter has been installed if the installation of the meter is less than six months or fifteen dollars, whichever is greater. ***Ord. 1133**

Rev. 11/95
◘ Ord. 1007-7/08
* Ord. 1133-3/14

B. Any monies deposited with the Town pursuant to this section shall be held in a separate account established by the Town. The Town shall return the deposit in full at the end of a one year period of time from the date of reconnection only if during that period of time no water billing is unpaid or delinquent.

C. The only exception to the service disconnection provisions is a thirty-day extension which may be granted by the Town Manager upon written request and for good cause.

D. The Town may discontinue other Town-supplied utility service for failure to pay for billings for water service.

Section 13-4-4 Connect Charge *Ord. 1133

In addition to the charge provided in Section 13-4-3, each customer shall pay a connect charge for each original connection for water services as set by Council resolution.

Section 13-4-5 Meters ◘ Ord. 1007 *Ord. 1133

A. Meters to be Used. Each customer of water supplied by the Town shall be supplied such water only through a standard designed water meter as specified by the Public Works Director or his/her designee which shall measure the consumption of water in terms of gallons, and no water service shall be supplied any consumer except in accordance herewith. The Town shall not be construed to be a consumer. Title to the water meters so installed shall remain in the Town and said meters shall be services and repaired by the Town. ***Ord. 1133**

B. Individual meters shall be installed for each occupancy unit, and each occupant thereof shall be billed separately by the Town; however, upon approval by the Public Works Director or his/her designee a master meter may be utilized for multi-occupancy projects and the base monthly charge as established by resolution of the Council shall be charged for that meter. The base monthly rate will be calculated by each residential/commercial dwelling as a fee per dwelling. ◘ **Ord. 1007 *Ord. 1133**

C. Meter Specifications. Water meter and service shall be of sufficient size as specified by the Internal Building Code version adopted by the town. ***Ord. 1133**

The building inspector shall have authority to require reasonable meter and service sizes larger than those of the schedule.

D. Water Meter Failure. If a water meter fails to operate and a reading cannot be taken, a bill shall be made by the Town in an amount based on the average monthly billing of the previous three months.

E. Interference by Dogs. In the event any dog kept on the premises interferes with meter reading by an employee of the Town and the meter is not read, a billing shall be made by the Town in an amount based on the average monthly billing of the previous three months.

Section 13-4-6 Liability

A. Interruption of Service. The Town shall notify the consumer in advance of any anticipated interruption of service when such advance notice is possible. The Town shall not be responsible for any interruption of water service caused by forces beyond its control.

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

Rev. 11/95
◘ Ord. 1007-7/08
* Ord. 1133-3/14

Section 13-4-7 Regulations Part of Contract

All regulations contained in this Article shall be considered a part of the contract of every resident of the Town taking water service from the Town, and such resident taking water service shall be considered as having expressly consented to be bound thereby. Consumers outside the Town limits shall, upon application for water service, be required to sign a statement agreeing to the regulations set forth in this Article.

Section 13-4-8 Restriction on Resale of Water *** Ord. 1164-5/16

A. If a customer purchases water services from the Town for distribution through a system owned or operated by the customer and imposes separately stated charges on other persons, the aggregate amount of the separately stated charges shall not exceed the actual cost paid by the customer to the Town for the water services.
B. The customer shall provide to each person subject to a separately stated charge, a statement of the average water service charge per month per person for the prior year.
C. The customer shall, at the Town's request, provide a list of each separately stated charge imposed upon each person for the prior month.
D. The term "water customer," as used in this section, shall not include the following:
   i. A public service corporation that charges rates and fees set by the Arizona Corporation Commission, as defined in the Arizona Constitution, Article XV, Section 2.
   ii. A retail establishment that sells water in a container or allows consumers to provide their own containers for transporting water.

Article 13-5 WATER SERVICE EXTENSION

13-5-1	Definitions	§ Ord. 1011-9/08 *Ord. 1133-3/14 **Ord. 1142-8/14
13-5-2	Area to be Served	
13-5-3	Plans	*Ord. 1133-3/14
13-5-4	Specifications	✯Ord. 1027/2-09 *Ord. 1133-3/14
13-5-5	Construction and In-Progress Inspection	*Ord. 1133-3/14
13-5-6	Extension Rights Reserved; Costs of Extension	
13-5-7	Replacement or Repair	
13-5-8	Acceptance; Health Inspection; Ownership; Authorization to Use	
13-5-9	Connections; Meters; Maintenance; Charges	*Ord. 1133-3/14
13-5-10	Connection Required; Separation Required	§ Ord. 1011-9/08 *Ord. 1133-3/14
13-5-11	Prohibited Acts	

Section 13-5-1 Definitions

In this article unless the context otherwise requires:
A. "Water main" means an arbitrary term for a pipe carrying water.
B. "Developer" means any person engaged in the requesting and financing of water main extension beyond the present Town water mains. A developer may be either a subdivider or a legally constituted improvement district.
C. "New Construction" shall mean a new building or development for which a building permit is issued after September 3, 2008. "New Construction" does NOT include new accessory buildings or alterations or modifications to an existing dwelling or building. § Ord. 1011

Rev. 11/95
§ Ord. 1011-9/08
*** Ord. 1164-5/16

D. "Residence Services": shall mean any structure or premises used as a domicile, dwelling, or habitation including single family dwellings, duplexes, tri-plexes and four-plexes.* **Ord. 1133 **Ord. 1142**

E. "Commercial Services": shall mean any person in charge of, owning, leasing, renting or occupying any business, industrial or commercial building other than a private residence, including, but not limited to a store, office, factory, hotel, tourist court, mobile home park, motel, motor court, motor hotel, trailer court, apartment complexes, condominiums, townhouses and similar configured housing complexes, apartment hotel or residential building ordinarily leased for a period of less than three months. * **Ord. 1133 **Ord. 1142**

F. "RATES": shall be determined by staff or outside professional services using industry standard method and shall include but not limited to the full replacement cost of all assets, staffing needs, operational expenses and any other item to ensure a safe and reliable water utility. Rates shall be set by council resolution. * **Ord. 1133**

Section 13-5-2 <u>Area to be Served</u>

A. The maximum area to be serviced by the proposed water main extension and its ultimate extensions shall be determined by the Town Engineer based on local topography. In the event the area to be serviced by the developer is less in size than the maximum area to be serviced by the proposed water main extension and its ultimate extensions, the water main extension shall be designed, Engineered and constructed to serve the maximum area described heretofore.

B. Except as provided in subsection C of this section, no water service shall be provided outside the Town's corporate limits.

C. Water service may be provided outside the Town's corporate limits when:

1. Such water service was being provided on October 6, 1980; or

2. Such water service is for the purpose of serving Town facilities; or

3. The owner of property for which the water service is requested executes an agreement as follows:

   a. The developer shall agree to annex the property into the Town at such time as the Town determines it is lawful and feasible to do so.
   b. The property owner, his heirs, personal representatives, successors in interest and assigns shall agree to pay all costs for temporary connection, upon execution of the agreement, and to pay all actual costs, plus twenty percent administrative costs, of the construction of the property owner's pro rata share of the costs of extending a permanent water main to the property, with said costs to be paid prior to commencement of actual construction but payable upon presentation by the Town of an estimate of the line extension costs related to the property owner's pro rata share of same.
   c. The property owner agrees that the agreement assessing the cost of extending a water main to his property, executed pursuant to this subparagraph, shall not only be binding upon him but also on his heirs, personal representatives, successors in interest and assigns and shall constitute a covenant running with the land , extinguishable upon full compliance of this agreement. The property owner shall also agree that he, his heirs, successors in interest and assigns shall not oppose any improvement district formed in the future for the purpose of extending a permanent water line to serve the subject property.

4. Upon approval by the Town Manager, and in accordance with Section 13-5-10, subsection B of this Code, an individual property owner may utilize a temporary connection to the water system to serve one single family dwelling unit in lieu of extending the system in accordance with Section 13-5-2 of this code. Prior to approval of such temporary connection, the property owner shall agree in writing to pay a pro-rata share of the cost of any future water main extensions which would serve the property in question.

Rev. 11/95
* Ord. 1133-3/14
**Ord. 1142-8/14

Section 13-5-3 Plans

A developer who wishes to extend water facilities must employ a Civil Engineer registered in Arizona to perform the field Engineering and to prepare detailed plans and specifications for such extension. This Engineer shall not be the Town Engineer nor any Engineer retained by or operating as an independent contractor on behalf of the Town. The final detailed plans and specifications for the water main extension must be approved by the Town Engineer as being within such specifications of the Town as are herein provided and as may be otherwise provided and as are in accordance with good Engineering practices before construction begins. The Town will charge to the developer a plan review fee as determined by Council resolution. All extensions of water mains shall have Council approval prior to the beginning of construction. * **Ord. 1133**

Section 13-5-4 Specifications

A. Any water main extension as contemplated herein shall be designed to provide a minimum of forty-five (45) pounds per square inch of water pressure and at a rate of flow to be determined by the Town Engineer at all points within the maximum area to be served by said extension and its ultimate extensions.
B. No water main of diameter less than eight inches shall be installed, except that lines which interconnect (loop) two water mains may, at the discretion of the Town Engineer, be of a six-inch (6") diameter. The Town reserves the right to increase the diameter of the main extension.
C. All water mains shall be interconnected (looped) in a pattern approved by the Town Engineer as providing for maintenance of adequate pressure and as providing for future extension to the maximum area to be serviced.
D. Water mains shall be installed only in dedicated streets or alleys or in dedicated rights of way along such streets or alleyways, and in easements for such purpose accepted by the Town.
E. Fire Hydrants shall be installed along all water main extension as follows: ★ **Ord. 1027**
   1. Fire hydrants shall be installed at a distance of not more than five hundred feet (500') from an existing fire hydrant in residential areas unless otherwise authorized by a Fire Protection Plan approved by the Wickenburg Fire Chief or Public Works Director or his/her designee. Fire hydrants shall be connected by at least a six inch (6") ductile iron pipe. * **Ord. 1133**
   2. All Fire Hydrants shall be of the Mueller Super Centurion type or or other equivalent as approved by the Public Works Director or his/her designee. * **Ord. 1133**
   3. Each Fire Hydrant shall have three (3) outlets consisting of two: two and one-half inch hose nozzles and one: four and one half inch pumper nozzle with NST (National Standard Thread). * **Ord. 1133**
   4. All Fire Hydrants shall be painted red.

F. All water mains shall be as follows: 1) Six (6) to sixteen (16) inch diameter pipe shall be ductile iron, minimum 150 psi or as specified by the Town Engineer/Public Works Director or his/her designee. 2) Sixteen (16) inch diameter pipe or greater may be either ductile iron or concrete pressure pipe-steel cylinder type. *(6/96)* * **Ord. 1133**
G. Water service lines connecting a water main to a customer's meter shall be Type K Soft Copper, no less than one inch (1") or as specified by the Town Engineer/Public Works Director or his/her designee. *(6/96)* * **Ord. 1133**

Section 13-5-5 Construction and In-Progress Inspection

A. Prior to the start of construction, an offsite improvement permit shall be obtained from the Community Development/Neighborhood Services Department. No such permit shall be issued until plans for the extension have been approved pursuant to Section 13-3-6, Plan for Extension and the appropriate water development fee paid pursuant to Chapter 8, Article 8-4 of the Code. The cost of said permit shall be determined by Resolution of the Council. The estimated cost of inspections shall be collected prior to issuance of the permit. If the actual cost of inspections exceeds the estimate, the additional amount must be paid to the Town prior to final approval of the extension. If the actual cost of inspections is less than the estimated cost, the overcharge will be refunded. *(6/96 & 3/99)* * **Ord. 1133**

Rev. 11/95
★Ord. 1027/2-09
* Ord. 1133-3/14

B. The construction of water main extensions shall meet the specifications, requirements and approval of the Town, and such construction shall be subject to in-progress inspection by the Town Engineer and the Public Works Director or his/her designee/. *** Ord. 1133**

Section 13-5-6 <u>Extension Rights Reserved; Costs of Extension</u>

A. The Town reserves the right to install any water main extensions.

B. Except as may be provided in subsection C of this section, the developer causing an extension of the water system shall pay in full for all rights-of-way, easements, Engineering, the construction and installation of all mains and other features necessary for the extension as determined by the Town Engineer. Upon final inspection and acceptance of the improvements by the Town, the developer shall relinquish all interest in the improvements, right-of-way and all claims for reimbursement by others except as provided in subsection C of this section.

C. When a developer desires to construct a water line extension, and said extension includes the capacity to serve more properties than those being developed by the developer (excess capacity); and said excess capacity is to be provided in accordance with Section 13-5-2, subsection A of this code, the Town may enter into a utility line extension payback agreement to provide for the pro-rata reimbursement by those who subsequently derive benefit from said extension, to the developer who caused and paid for the installation of the extension under consideration. Such reimbursement shall be accomplished pursuant to a utility extension payback agreement in the form, and with the content, adopted by resolution of the council. The utility extension payback agreement may be tailored to suit the particular situation provided, however, that the following criteria and administrative procedures shall be complied with.

1. Those who derive subsequent benefit shall be defined as developers or property owners who subdivide or develop land within the water system service area as determined pursuant to Section 13-5-2, subsection A of this code after an offsite improvement permit has been issued for the purposed extension. Excluded from this definition are existing developments which are served by existing water lines within the service area of the water line extension.

2. Apportionment of the cost shall be based on the total area within the designated water service area as determined pursuant to Section 13-5-2, subsection A of this code, exclusive of dedicated rights-of-way or easements. The cost apportioned to a given parcel shall be the pro-rated share of the total cost of the project in the ratio of the area of the parcel to the service area of the proposed extension and its ultimate extensions; or as otherwise established by resolution of the council.

3. Costs apportioned to lands under the provisions of this subsection shall be collected by the Town from each owner as a prior condition to the providing of water service to the property in question.

4. Utility payback agreements shall remain in effect for a specified time period which in no case shall exceed ten years.

5. The Town's finance director shall establish and maintain an accounting procedure for the express purpose of administering and monitoring all such utility payback agreements.

Section 13-5-7 <u>Replacement or Repair</u>

All persons or other entities who create, cause to be built, or build any water main extensions as contemplated herein shall also pay for any and all such replacements including but not limited to those of street surfacing, curbs or sidewalks, as become necessary as a result of the creation, building or construction of such extensions.

Rev. 11/95
* Ord. 1133-3/14

Section 13-5-8 Acceptance; Health Inspection; Ownership; Authorization to Use
When a water main extension is completed and approved by the Town Engineer, then the council shall, by resolution, accept, approve and authorize the use thereof, provided that there has been filed with the Town clerk suitable health certification for such extension by the Maricopa County health department, and provided further that the extension shall first have been conveyed to the Town free and clear of any and all encumbrances.

Section 13-5-9 Connections; Meters; Maintenance; Charges

A. The Town shall have exclusive control of connections to water main extensions. Meters of customers serviced by such water mains shall be located in dedicated streets or alleyways or in dedicated rights-of-way along such streets or alleyways or in dedicated easements for such purposes accepted by the Town.

The Town reserves the right and assumes full responsibility of costs for repair or maintenance of water mains and of lines connecting such mains to a customer's meter, except as follows: In cases in which, prior to July 15,1974, customers' meters have been placed in locations other than herein described, the Town reserves the right to maintain or repair water lines connecting water mains and such customers' meters with the cost to the customer not to exceed such cost as would incur were the meter in the location herein described.

B. Building or house connection (water tap) charges and monthly water service charges within the developer's area shall be made at the prevailing rates.

C. Before any tap or connection is made, the applicant/developer shall pay to the Town the applicable water TAP fee per Council resolution. * **Ord. 1133**

Section 13-5-10 Connection Required § **Ord. 1011 (New Section)**

A. Connection Required: Except as provided in Paragraph B, all new construction on real property within the Town or annexed into the Town in the future shall connect to the Town's water system. Where connection to the water system is required pursuant to this Section, such connection shall be completed within ninety (90) days of the date of written notice from the Town requiring connection. Such connection shall be in accordance with Town requirements and the cost of connection shall be borne by the owner of the new construction.

B. Exceptions: Connection to the water system shall not be required for:

1. An individual single family dwelling when it is determined by the Town Engineer and the Public Works Director or his/her designee that either (i) the dwelling was served potable water by a private well as of September 3, 2008, or (ii) the cost of the required extension exceeds the cost of an approved alternative water delivery system by four (4) times. * **Ord. 1133**
2. A development, other than an individual single-family dwelling, that is a single-family project, multi-family project or commercial or industrial building of less than 50,000 square feet, when it is determined by the Town Engineer and the Public Works Director or his/her designee that either (i) the project or building was served potable water by a private well as of September 3, 2008, or (ii) the cost of the required extension exceeds the cost of an approved alternative water delivery system by six (6) times. * **Ord. 1133**
3. A development that includes a commercial or industrial building of 50,000 square feet or greater, when it is determined by the Town Engineer and the Public Works Director or his/her designee that either (i) the building was served potable water by a private well as of September 3, 2008, or (ii) the cost of the required extension exceeds the cost of an approved alternative water delivery system by ten (10) times. * **Ord. 1133**
4. Properties where only irrigation water is used.

D. Owner Election to Connect: Owners of real property that are exempt from the requirement to connect to the Town's water system may elect to do so, in which event the cost of such connection shall be borne by the owner.

Rev. 11/95
§ Ord. 1011-9/08
* Ord. 1133-3/14

E. Separation: In the event that any properties are serviced both by the Town and non-Town water supply systems, then no component part of one such system shall be closer than ten (10) feet from any component part of such other system.

Section 13-5-11 Prohibited Acts

It is unlawful for any person to excavate or cause an excavation to be made for the purpose of laying water lines or pipes in the public streets, alleyways or in easements accepted by the Town for such water lines or upon the property of the Town without first complying with the provisions of this article.

Article 13-6 UTILITY SERVICE

13-6-1 Utility Service Departments
13-6-2 Definitions * Ord. 1133-3/14
13-6-3 Accounting
13-6-4 Bonding
13-6-5 Transfers of Services

Section 13-6-1 Utility Service Departments

There shall be established four utility service departments known as electrical utility service department, garbage and trash utility service department, sewer utility service department and water utility service department.

Section 13-6-2 Definitions * Ord. 1133

A. "Electrical utility service department" shall mean the purchase, production, distribution or sale of electric energy pursuant to article 13-1 of this chapter.

B. "Garbage and trash utility service department" shall mean the collection and disposal of refuse for a monthly service fee pursuant to article 13-2 of this chapter.

C. "Sewer utility service department" shall mean the collection and treatment of sewage waste materials for a monthly service fee pursuant to article 13-3 of this chapter.

D. "Water utility service department" shall mean the purchase, production, distribution and sale of water pursuant to articles 13-4 and 13-5 of this chapter.

Section 13-6-3 Accounting

A. Each utility service department shall maintain an account separate from each other utility service department and separate from any other fund or account of the Town.

B. All proceeds received from the sale of bonds and all fees, rents, tolls or other charges received by the Town from the operation of any utility service department shall be paid into a separate account, in the name of such utility service department.

C. Funds on deposit for each utility service department shall be used to pay all bonds and interest thereon and to provide for all expenses of operation, maintenance, expansion and replacement of facilities for such utility service department or for another utility service department, for capital improvements of the Town or for rebate of the Town property tax.

D. Costs of administration and other costs of the Town shall be paid from each utility service department account to the extent that such costs can be allocated to such utility service department and only to the extent of the proven need of such utility service department.

Rev. 11/95
* Ord. 1133-3/14

Section 13-6-4 Bonding

Nothing in this Chapter shall prohibit the utilization of the combined assets of all utility service departments as collateral for bonding or financing purposes for any utility service department.

Section 13-6-5 Transfers of Services

Any utility service provided from any utility service department to any department of the Town shall be charged to the department receiving such service at the actual cost of the utility service department providing such service.

Article 13-7 WATER CONTAMINATION PREVENTION

13-7-1 Purpose of Article
13-7-2 Policy of Article
13-7-3 Application of Article
13-7-4 Definitions
13-7-5 Where Backflow Prevention is Required
13-7-6 Type of Assembly Required
13-7-7 Backflow Prevention, Assembly Installation, Maintenance and Repair
13-7-8 Permits
13-7-9 Inspections and Site Surveys
13-7-10 Testing
13-7-11 Notice of Discontinuation of Service
13-7-12 Termination of Water Service
13-7-13 Records
13-7-14 Prohibited Acts
13-7-15 Limitation of Liability
13-7-16 Fees
13-7-17 Availability of Standards

Section 13-7-1 Purpose of Article

The purpose of this Article is as follows:

A. To protect the public potable water supply system of the Town from contamination or pollution by isolating, within the customer's water system, contaminants and pollutants which could backflow through the service connection into the public potable water supply system.

B. To provide for an ongoing program of cross-connection control which will prevent the contamination or pollution of the public water supply system.

C. To comply with the Arizona Department of Environmental Quality Backflow Prevention Regulations.

Section 13-7-2 Policy of Article

A. Under this Article, the customer is responsible for protecting the public water supply system from contamination due to backflow or back-siphonage of contaminants or pollutants through the customer's water service connection.

B. In furtherance of this Policy:

1. Section 13-7-5.C. requires a backflow prevention assembly to be installed, maintained and tested by the customer, at the customer's expense, at each service connection to the premises whenever the structure connected to the public potable water supply was constructed after 1994, except as otherwise required by law.

2. The Town is undertaking a site inspection program to assist in identifying locations where the Town or its authorized representative may deem installation, maintenance and testing of a backflow prevention assemblies or other backflow prevention methodology is appropriate for the safety of the public water supply system.

3. Backflow prevention assemblies or devices required by this Article, including sections 13-7-5 and 13-7-6 of this Article shall be installed by the customer, at the customer's expense within the time period specified in the written notice, unless otherwise provided in this Article or by law.

4. Backflow prevention assemblies or devices required by this Article shall be maintained and tested by the customer, at the customer's expense, to ensure operation thereof on a continuing basis.

5. The customer, at the customer's expense, shall retain records of installation, maintenance, testing and repair, as required in section 13-7-13.

6. Failure or refusal on the part of the customer to install, maintain and test such backflow prevention assembly or device or to maintain records thereof as required by this Article shall constitute grounds for discontinuing water service to the premises until such assembly has been so installed, maintained and tested.

C. This Article does not limit the Town's right to disconnect water service, with or without notice as deemed appropriate by the Town, to protect the public's health, safety or welfare.

Section 13-7-3 Application of Article

This Article shall apply to all premises served by the public potable water supply system of the Town or to any other approved potable water supply of the Town, including any private, auxiliary or emergency source. The provisions of this Article shall not apply to single family residences constructed prior to 1995 unless a backflow, back-siphonage or cross-connection problem is identified at a particular residence by inspection or site survey or the residence is used to conduct a business enterprise or any hobby that utilizes water on site in such a way that it constitutes an actual or potential threat to the public water system.

Section 13-7-4 Definitions

As used in this Article:

A. "Approved backflow prevention assembly" means a backflow prevention assembly of the size and type approved by the Public Works Department as appropriate to protect the Town's potable water supply from the decree of hazard presented by the customer's water system, that has completely met the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California as are published from time to time and, where on a fire system, has Underwriters Laboratory and Factory Mutual approval or listing, or as otherwise described, limited or provided in this Article.

B. "Auxiliary water supply" means any water supply on or available to the premises other than the Town's approved water distribution system. These auxiliary waters may include "used water" or "industrial fluid." Auxiliary water supplies not approved as a potable water supply by the Town are hereby declared to be dangerous to health pursuant to Section 13-7-6.

C. "Backflow" means the reversal of the flow of water or mixture of water and other liquids, gases or other substances into any part of the Town's water distribution system.

D. "Backflow prevention assembly" or "assembly" means a device or means designed to prevent backflow and includes:

1. AIR-GAP. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the vessel. An approved air-gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the overflow rim of the vessel and, in no case, less than one inch.

2. REDUCED PRESSURE PRINCIPLE ASSEMBLY. An assembly of two independently operating approved check valves with an automatically operating differential relief valve between the two check valves, properly located test cocks for the testing of the check and relief valves, and tightly closing resilient seat shut off valves at both ends of the device. The entire assembly must have been manufactured in full compliance with ASSE Standard 1013 for reduced pressure principle assemblies. The assembly shall operate to maintain the pressure in the zone between the two check valves at a level less than the pressure on the Town's water supply side of the assembly. To be approved, these assemblies must be readily accessible for in-line maintenance and testing, and be installed in a location where no part of the assembly will be submerged. The Public Works Department must approve an acceptable method of handling discharge water from the assembly.

3. DOUBLE CHECK VALVE ASSEMBLY. An assembly of two independently operating approved check valves with tightly closing resilient seat shut-off valves on each end of the check valve. The entire assembly must have been manufactured in full compliance with ASSE Standard 1015 for double check valve assemblies. To be approved, these assemblies must be readily accessible for in-line maintenance and testing, and have properly located testcocks for the testing of the check valves. This assembly shall only be used to protect against a non-health hazard.

4. DOUBLE CHECK-DETECTOR CHECK VALVE ASSEMBLY. A specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass 5/8" x 3/4" or 3/4" water meter and a 3/4" approved double check valve assembly. The meter shall register low rates of flow. This assembly shall only be used to protect against a non-health hazard. To be approved, these assemblies must be readily accessible for in-line maintenance and testing and have properly located test cocks for the testing of the check valves, plus a tightly closing resilient seat shutoff valve at each end of the double checks, and shall comply fully with ASSE Standard 1048.

5. PRESSURE VACUUM BREAKER ASSEMBLY. An assembly containing an independently operating loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly shall be equipped with properly located test cocks and tightly closing resilient shut-off valves located at each end of the assembly, and shall comply with ASSE Standard 1020.

6. ATMOSPHERIC VACUUM BREAKER.
   a. A non-testable device containing a float check, and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls, which open the inlet, port to allow air to enter, thereby preventing back-siphonage. All such devices will comply with ASSE Standard 1001.
   b. A shut-off valve immediately upstream is allowed, but no valving of any kind downstream of the device is permitted. An atmospheric vacuum breaker is designed to protect against a health hazard under a back-siphonage condition only. This assembly is also known as the non-pressure-type vacuum breaker. The atmospheric vacuum breaker may not be utilized as sole, direct protection of a cross-connection that could otherwise pollute or contaminate the public water distribution system.

E. "Certified General Tester," means a person who holds a valid "General" tester certification issued by the California-Nevada American Water Works Association Section, the Arizona State Environmental Technical Training Center or other certifying authority approved by the Arizona Department of Environmental Quality.

F. "Commercial or Industrial Water Customer" means any non-residential water customer. Examples of such customers would include, but are not limited to: business enterprises of all sorts, government owned or operated buildings or properties, apartment buildings, hospitals, and all irrigation sprinkler systems which have their own dedicated water service connection. Residential water users who conduct a business enterprise or any hobby at their home that utilizes water on site in such a way that it constitutes an actual or potential threat to the public water system are also defined as "commercial or industrial" water users.

G. "Customer" means the owner, official custodian or person in control of any premises supplied water service by or in any manner connected to the Town's public potable water system. The Town may deem any person or entity reflected in the Town's records as the applicant for water service, the party responsible for paying the water bill or as the party paying the water bill as a customer for the purposes of this Article.

H. "Cross-connection" means a cross-connection as defined in Section 104-M of the Uniform Plumbing Code as amended and as adopted by the Town from time to time.
   I. "Industrial fluids" means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutant or plumbing hazard if introduced into the Town's water distribution system. This may include, but is not limited to: polluted or contaminated waters; all types of process waters and "used waters" originating from the Town's water distribution system which may have deteriorated in sanitary quality; chemicals in fluid form, plating acids and alkalines, circulated cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with

toxic substances; contaminated natural waters; oils; gases; glycerin; paraffin's; caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for fire-fighting purposes.

J. "Used water," means any water supplied by the Town to a customer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the Town.

Section 13-7-5 Where Backflow Prevention Is Required

A. One or more approved backflow prevention assemblies or other backflow prevention methods approved by the Public Works Department as appropriate to prevent contamination or pollution from entering the Town's public water supply system shall be installed, maintained and tested by the customer, at the customer's expense, to ensure operation thereof on a continuing basis whenever the customer's system or equipment contains water or other substances of known, unknown or questionable quality that may contaminate, pollute or otherwise deteriorate the quality of the Town's public potable water.

B. Approved backflow prevention assemblies shall also be installed by the customer, at the customer's expense, at every service connection where the following conditions exist:
   1. An auxiliary water system exists, unless the Town has accepted such auxiliary water system as an additional potable water source and the source has received all necessary regulatory approvals for the use as a potable water supply by the Town.
   2. Internal cross connections exist that, in the judgment of the Public Works Department, are not correctable, or intricate plumbing arrangements which make it impractical to determine whether cross connection exists.
   3. Security requirements or other prohibitions or restrictions exist making it impractical to make a complete site survey.
   4. There is a repeated history of cross connections being established or reestablished.

C. An approved backflow prevention assembly shall be installed by the customer, at the customer's expense, at every service connection to the Town's public potable water system and thereafter maintained and tested by the customer to ensure operation thereof on a continuing basis whenever the facility connected to the Town's public potable water supply system was constructed after 1994.

D. One or more approved backflow prevention assemblies or other backflow prevention methods shall be installed and thereafter maintained and tested by the customer, at the customer's expense, to ensure operation thereof on a continuing basis whenever the Public Works Department or its authorized representative provides written notice to the customer that, based upon an inspection or site survey, the Public Works Department or its authorized representative has determined that the public potable water supply may be subject to contamination, pollution or other deterioration of quality by conditions or potential conditions within the customer's water system.

E. Fire sprinkler systems subject to the provisions of A.R.S. §41-2168 shall be protected by the procedures formulated by the Public Works Department for backflow prevention complying with A.R.S. §41-2168

F. Construction water meters shall be equipped with an approved air gap or a reduced pressure backflow prevention assembly, as determined by the Public Works Department. Such assemblies are subject to all provisions of this Article.

G. Temporary meters, other than construction meters, shall be equipped with a reduced pressure backflow prevention assembly. Such assemblies are subject to all provisions of this Article.

Section 13-7-6 Type of Assembly Required

A. The Public Works Department shall determine the type of protection or assembly required dependant upon the degree of hazard the department determines exists, except that a double check valve assembly shall not be installed where the contamination hazard is dangerous to health. The Public Works Department may authorize the use of a double check valve assembly where the water or substance is not dangerous to health, but may create a nuisance, be aesthetically objectionable or could cause some damage to the distribution system or its appurtenances.

B. Any property with more than one water service shall, at the discretion of the Public Works Department, have backflow protection on each service to the property.

C. Wherever an uninterrupted water supply is required, multiple assemblies mounted for parallel flow shall be required.

Section 13-7-7 <u>Backflow Prevention Assembly, Installation, Maintenance and Repair</u>

A. The customer shall install any backflow prevention assembly or device required by this Article as a condition to seeking connection or reconnection to the Town's public potable water system. The Town may require the customer to provide evidence of the installation and operational status of any required backflow prevention assembly or device, including records of maintenance and testing, as a condition of making any connection or reconnection to the Town's public potable water system.

B. Where a service connection to the Town's public potable water system already exists, the customer shall complete installation of an approved and operational backflow prevention assembly or device within the time specified in the notice of the requirement. Where the notice does not specify a time frame, installation shall be completed within thirty (30) days of the date of the notice.

C. Backflow prevention assemblies and devices shall be protected from the elements. All assemblies and devices shall be installed at the customer's expense and in accordance with the requirements of the Public Works Department and any other governmental entity having jurisdiction there over outside, above ground, and adjacent to the meter on the customer side of the meter, with the following exceptions:
   1. For residential services, a below grade double check assembly may be installed in a properly sized valve box, unless a double check valve assembly is otherwise prohibited by section 13-7-6: and
   2. For commercial services, the Public Works Department may allow testable internal protection measures at the actual cross-connection location(s).

D. The back-flow prevention assembly shall be maintained by the customer to ensure proper operation on a continuing basis and sufficient to protect the public potable water supply against any potential hazard posed by the customer's water system or equipment.

E. Whenever backflow prevention assemblies required by this Article are found to be defective, they shall be repaired or replaced at the expense of the customer within a reasonable time not to exceed 10 days, unless, upon a showing of good cause, the Public Works Department determines a longer period is appropriate and does not constitute an unreasonable risk to the public potable water system.

Section 13-7-8 <u>Permits</u>

A. Installation Permits for the installation of all assemblies, devices or methods shall be obtained from the Public Works Department prior to installation. A separate permit shall be obtained for each assembly, device or method to be installed, including replacement.

B. It shall be the duty of the person doing the work authorized by the permit to notify the Public Works Department in writing that said work is ready for inspection and testing. Such notification shall be given not less than twenty-four (24) hours before the work is to be inspected and tested and shall be given only if there is reason to believe that the work done will meet the current requirements of the Uniform Plumbing Code, this Code and the University of Southern California Standards, as referred to in the 9th Edition Manual of Cross-Connection Control, or such subsequent editions as approved by the Public Works Department.

Section 13-7-9 <u>Inspections and Site Surveys</u>

A. All approved backflow prevention assemblies and other assemblies which are required by applicable federal, state, local or other regulations to be tested or inspected annually shall be subject to an inspection with certification to be provided to the Town after each testing of the assembly. In instances where such assemblies, if not properly installed or maintained, could pose a serious hazard to the Town's water distribution system, those assemblies shall be subject to more frequent testing and inspections. A Certified General Tester shall conduct the inspections and testing required by this section.

A. The Town shall conduct periodic site surveys as determined appropriate by the Public Works Department to determine whether cross-connection or other sanitary hazards or violations of this Article, or other applicable regulations, exist. An employee or contractor of the Town who is a Certified General Tester shall perform such site surveys and shall have the right to enter any premises supplied with the Town's water distribution system.

B. When any inspection testing or site survey reveals that a backflow prevention assembly is in an unsatisfactory operating condition or otherwise in a non-permitted condition under this Article, it shall be repaired or replaced by the customer, at the customer's expense. Any necessary repairs, including replacement or overhaul of the assembly, if necessary, shall be completed within a reasonable time not to exceed ten days.

Section 13-7-10 <u>Testing</u>

A. Each backflow prevention assembly shall be tested by the customer, at the customer's expense, upon the occurrence of each of the following:

1. Upon installation or replacement of the assembly; and

2. Annually upon the anniversary date of the installation or replacement of the assembly; and

3. Upon the repair, overhaul or relocation of any assembly.

B. Such testing shall be accomplished by a Certified General Tester. Testing shall be in accordance with the procedures described in the 9th edition of the University of Southern California Manual of Cross-Connection Control, or such subsequent editions as approved by the Cross-Connection Control Program Manager.

C. No backflow prevention assembly shall be placed in service unless it has been tested and is functioning as designed and in a satisfactory manner.

Section 13-7-11 <u>Notice of Discontinuation of Service</u>

A. Whenever notice is required to be given by this Article, the Town or its authorized representative shall give not less than ten (10) days written notice to the customer, except in case of emergency. Notice herein shall be deemed given when deposited in the United States mail at Wickenburg, Arizona, first class postage paid, and addressed to the water customer as such customer's address appears on the record of customers maintained by the Town for water billing purposes. The Town may use any other means of notice, such as door hangers, certified mail, express delivery, as it deems reasonably calculated to provide notice to the customer. Any violation which involves an immediate danger of potentially allowing any substance into the Town's water distribution system shall constitute an emergency, and the notice provided herein shall not be required prior to terminating water service.

B. Initial notice of a backflow prevention assembly or device requirement shall include such information as the Public Works Department determines is appropriate under the circumstances and may include a description of:
1. The nature of the problem sought to be addressed;
2. The type or types of backflow prevention assembly or device that is being required:
3. The proper place and manner of installation;
4. The time by which installation must be completed;
5. The testing and record keeping requirements;
7. The consequences of failing to timely install, or test a required assembly or device or to maintain records thereof.

C. Notice of a violation of this Article shall include such information as the Public Works Department deems appropriate under the circumstances and shall state the nature of the violation, the date on which water service to the promises will be terminated, and a telephone number or address where the customer may make inquiry regarding the notice and determine what corrective action is necessary to avoid termination of service.

Section 13-7-12 Termination of Water Service

A. The Public Works Department may terminate water service to any premises connected to the Town's public potable water distribution system after providing notice, upon its determination that the customer or occupants of the premises are violating any provision of this Article.

B. The Public Works Department shall terminate water service to any premises connected to the Town's public potable water distribution system if one or more of the following conditions exists:

1. An unprotected cross-connection exists on the premises.
2. An approved backflow prevention assembly has not been installed as required by this Article, is not working, has been altered, removed or bypassed or is found to otherwise require the disconnection of the premises from the Town's water distribution system by the Public Works Department.
3. A backflow, back-siphonage or cross-connection problem is identified at a single-family residence.
4. A test record of a backflow prevention assembly, as required by this Article, has not been submitted to the Public Works Department.

C. Water service terminated under this section shall not be resumed until the customer demonstrates to the satisfaction o the Public Works Department that the premises are in compliance with this Article.

Section 13-7-13 Records

A. Each customer shall maintain records, on forms approved by the Public Works Department, of the results of all tests, services, repairs, overhauls or replacements of backflow assemblies and shall include:

1. Date of each test.

2. Name and approval number of person performing the inspection or test.

3. Test results/inspection.

4. Repairs or servicing required.

5. Repairs and date completed.

6. Services performed and date completed.

7. Results of final test.

B. The customer shall promptly deliver a copy of each such record to the Public Works Department after completion of the activity for which the record was made.

C. Each assembly shall have a tag attached listing the manufacturer and serial number of the assembly.

D. The Public Works Department shall retain those records for a period of at least three years.

Section 13-7-14 Prohibited Acts

No bypassing of required assemblies or methods of backflow prevention shall be allowed under any circumstances except for fire emergency.

Section 13-7-15 Limitation of Liability

This Article makes the customer responsible for protection of the public water supply system from contamination or pollution due to the backflow through the customer's water service connection and shall not create any liability nor shall it impose any affirmative duty upon the Town, its officers or employees.

Section 13-7-16 Fees

In order to defray the Town's costs in establishing and administering the provisions of this Article, the council shall, by resolution, set the fees to be charged to each customer required to install a backflow prevention assembly or method and over what period of time such customer shall be allowed to make monthly installment payments therefore. The customer shall be entitled to up to two site surveys, inspections or combination thereof, as deemed appropriate by the Public Works Department, per assembly or method of backflow prevention per calendar year without any additional charge, provided if more than two site surveys, inspections or combination thereof, are required in any calendar year, an additional fee may be charged, in which event the council will set such an amount from time to time by resolution.

Section 13-7-17 Availability of Standards

A. Both the Public Works Department and the building department shall maintain and make available for review to those customers of the Town's water distribution system, plumbing companies and general contractors, information regarding backflow and/or anti-siphon devices, materials, assembly and construction diagrams. Devices, assemblies and their installation, where required, shall be equal to or better than those available for review.
B. The Public Works Department shall maintain a list of backflow prevention assemblies by type and manufacturer. The list, together with instructions for proper installation, shall be available to any customer required to install a backflow prevention assembly.
C. The Public Works Department shall maintain a current list of Certified General Testers, which shall be available to any customer required to maintain a backflow prevention assembly.
D. Information maintained and available for review in these departments is subject to supplementation and modification from time to time without the necessity to amend this Article and without the necessity of public hearings or comments.

Article 13-8 ELECTRICAL SERVICE

13-8-1 Electrical Extension Policy
13-8-2 Duty To Prevent Landscape Interference With Power Lines (*Ord. 894|5/03)

Section 13-8-1 Electrical Extension Policy

A. Developers, non-owner builders and builders of homes or commercial buildings shall extend electrical service, at its or their sole expense, to accommodate structures constructed by it or them, as well as they shall rebuild, at its or their sole expense, existing service lines and facilities necessary to furnish adequate electrical power capacity, voltage and amperage to accommodate the customers to be served by the electrical extension so as to adequately accommodate the customers to be served by the electrical extension. *(4/97)*

B. Developers, non-owner builders and builders of homes or commercial buildings may be eligible for a partial refund of the costs for such extension of electrical service, as set forth above, if an economic study performed to Town criteria and examining all factors determined relevant by the Town, such as revenue, operating expenses, permanent connected improvements (a customer with both a meter set and the premise occupied), demonstrates a partial refund, not exceeding 70% of the cost of construction, provided by periodic payments over not less than a five (5) year period will provide the cost of service and an acceptable rate of return. A development shall not be eligible for a refund unless the Town and the developer/builder have entered into a development agreement setting forth the conditions, schedule and factors for the refund, prior to final plating or if no plat is required, issuance of a construction permit relating to the project.

Section 13-8-2 Duty To Prevent Landscape Interference With Power Lines

A. Property owners or persons controlling property within the Town of Wickenburg shall prevent all trees, landscaping, and improvements on their property from obstructing, encroaching upon or otherwise interfering with power lines, which may or may not be located on the property. Failure to prevent such interference with power lines is hereby declared to be a nuisance.

B. Failure to prevent said interference may result in Town action, including the trimming and/or removal of the offending landscaping, at the Town's discretion. The property owner or person controlling the property shall pay all expenses incurred by the Town for trimming and/or removing the obstructions.

C. The Town may remove such obstructions and charge the cost of such removal, in addition to any other penalty allowed under this Code, to the property owner or person controlling the property. Upon completion of the work, the Town Manager or other authorized Town Official shall prepare a verified statement of account of the actual cost of such removal, the date the work was completed, a description of the work done, and any other incidental costs incurred in connection with the removal.

D. The person or entity upon whom such costs are assessed may appeal from the amount of the assessment as contained in the verified statement in writing to the Town Council within thirty (30) days of receipt of the verified assessment. If an appeal is not filed with the Town Clerk within thirty (30) days, the amount of the assessment, as determined by the Town Manager or other authorized Town Official, shall become final and binding. If an appeal is taken, the Common Council shall, at its next regular meeting, hear and determine the appeal. The Common Council may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment shall be made. The decision of the Common Council shall be final and binding on all persons.

Article 13-9. TELECOMMUNICATIONS SERVICE

Section 13-9-1 DEFINITIONS

In this chapter, unless the context otherwise requires:

A. "Cable services" and "cable system" shall have the same meaning as defined in Cable Communications Policy Act of 1984.

B. "Commercial mobile radio service" means two-way voice commercial mobile radio service as defined by the Federal Communications Commission in 47 United States Code Section 157.

C. "Facilities" means the plant, equipment, and property used in the provision of telecommunications services and not owned by the town, including but not limited to poles, wires, pipe, conduits, pedestals, antenna, and other appurtenances placed in, on, or under highways and not owned by the town and used in the provision of telecommunication services.

D. "Public highway" or "highway" means all roads, streets and alleys and the other dedicated public rights-of-way and public utility easements of the town.

E. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. The term does not include commercial mobile radio services, pay phone services, interstate services or cable services provided by a cable system.

F. "Telecommunications corporation" means any public service corporation to the extent that it provides telecommunications services in this State.

Section 13-9-2 LICENSE OR FRANCHISE REQUIRED

A. License Required

No telecommunications corporation shall install, maintain, construct or operate telecommunications facilities in any public highway in the town unless a license to use the highways to provide telecommunications services has first been granted by the council under this chapter or a franchise awarded by the electorate under Article XIII of the Arizona Constitution and this chapter to such telecommunications corporation.

B. Exception

Notwithstanding Subsection A, any telecommunications corporation that was providing telecommunications service within the State of Arizona as of October

31, 1997, pursuant to a grant made to it or its lawful predecessors prior to the effective date of the Arizona constitution, may continue to provide telecommunications services pursuant to that state grant, until and unless the state grant is lawfully repealed, revoked, or amended, and need not be obtain any further grant from the town to provide telecommunications services; provided, however that such entity must in all other respects comply with the requirements applicable to the telecommunications corporations as provided in Title 9, Chapter 5, Article 7 of the Arizona Revised Statutes.

C. Existing Franchises and Licenses

Nothing in this ordinance shall be deemed to affect the terms or conditions of any franchise, license, or permit issued by the town prior to the effective date of the amendments of this ordinance or to release any party from its obligations thereunder. Those franchises, licenses or permits shall remain fully enforceable in accordance with their terms. The town manager, with the consent of the council, may enter into agreements with franchise holders, licensees or permittees to modify or terminate an existing franchise, license or agreement.

D. Limitations

A franchise or license to any telecommunications corporation to use the highways to install, maintain, construct or operate telecommunications facilities shall not authorize the use of the highways to provide any other service; nor shall the issuance of the same invalidate any franchise, license or permit that authorizes the use of the highways for such other services; nor shall the fact that a telecommunications corporation holds a franchise, license or permit to make any other use of the highway or to provide any other service, authorize installation, maintenance, construction or operation of telecommunications facilities in any highway in the town without obtaining a license or franchise hereunder.

E. Use of Licensee Facilities

A telecommunications licensee may enter into contract for use of its facilities within the public highways to provide telecommunication services. Persons using such licensee's facilities must themselves obtain a telecommunication license if such person constructs, installs, operates or maintains telecommunication facilities within the public highway of the town. If the persons using such licensee's facilities do not construct, install, operate or maintain telecommunication facilities within the public highway of the town, such persons need not obtain a separate license, but the telecommunications licensee must disclose the identity of such persons to the town.

F. License or Franchise Not Exclusive

Any license or franchise granted shall not be exclusive.

Section 13-9-3 LICENSE APPLICATION

A. Any telecommunications corporation desiring a license or franchise under this chapter to construct, install, operate and maintain telecommunication facilities in streets and other highways of the town shall file an application with the town clerk requesting at the applicant's election either a franchise or license in the form prescribed by the town, and shall pay a fee in an amount established by council resolution and payable in cash, certified or cashier's check, wire transfer, or in any other manner acceptable to the manager, made payable to the town. No application shall be considered without receipt of said fee. The applicant shall be responsible for reimbursing the town's full reasonable costs in excess of the application fee in processing the application, including, in the case of an application for a franchise, costs of an election. The filing fee is in addition to any permit fees established for persons doing work or locating facilities in streets and other highways of the town.*Ord. 1140

B. Each application shall, at a minimum, (1) show where the facilities the applicant will use will be located, or contain such other information as the town may deem necessary in order to ensure that the applicant will comply with requirements for use of the highways; (2) identify the applicant, its name, address and telephone number; (3) contain a description of the services to be provided; and (4) set out a description of any agreement with any other entity that would permit such entity to use the facilities.

C. Upon receiving an application for a license or franchise that satisfies the conditions of subsection (B), the town shall promptly proffer a telecommunications license or franchise to the applicant for its review, and may inquire into matters relevant to the issuance of the license or franchise. If the applicant agrees to the terms and conditions of the license or franchise, the request shall be submitted to the council with a recommendation for approval (in the case of a license) or a franchise election (in the case of an application for a franchise). Notwithstanding the foregoing, the town need not issue or renew a license or franchise, or schedule a franchise election, if the applicant has previously had a license or franchise revoked, or for any other reason permitted under Arizona law.

Section 13-9-4 CONDITIONS OF LICENSE OR FRANCHISE

A. General Conditions

As a condition of issuing or renewing a license or franchise to use the public highways to construct, install, operate and maintain telecommunications facilities the town may require:

*Ord. 1140/6-14

1. Proof that the applicant has received a certificate of public convenience and necessity from the Arizona Corporation Commission;

2. The applicant to agree to comply with highway use requirements that the town may establish from time to time;

3. The applicant to agree to provide and maintain accurate maps showing the location of all its facilities and the facilities it will use in the highways within the town, and to comply with such other mapping requirements as the town may establish from time to time:

4. The applicant to obtain the insurance, and provide proof of insurance as required by the town; to post the performance bonds and security fund required by the town; and to agree to fully indemnify the town, its officers. agents, boards and commissions, in a form satisfactory to the town; and agree that it shall have no recourse whatsoever against the town or its officials, boards, commissions, agents or employees for any loss, costs, expense or damages arising out of any provision or requirement of the town because of the enforcement of the license or franchise or because of defects in this chapter or the license or franchise issued;

5. The applicant to agree to comply with and be bound by the administrative and enforcement provisions as may be prescribed from time to time by the town.

B. Administration and Enforcement

Every franchise or license shall be subject to the following administrative and enforcement provisions:

1. Franchises and licenses shall be personal to the franchisee or licensee. Except as provided in the license or franchise, no transfer of a franchise, franchisee, license or licensee, or change of control over the same (including, but not limited to, transfer by forced or voluntary sale, merger, consolidation, receivership, or any other means) shall occur unless prior application is made to the town and the town's prior written consent is obtained, which consent will not be unreasonably withheld or delayed. In making a determination as to whether to approve a transfer, the town may consider the same information and qualifications required of an original application for a license or franchise; whether the licensee or franchisee is in compliance with its license or franchise and this chapter and, if not, the proposed transferee's commitment to cure such non-compliance; whether the transfer would result in an evasion of other applicable provisions of law, or impair lawful contracts; and the effect of the transfer on the town's interest. No application for a transfer of a license or franchise shall be granted unless the proposed transferee agrees in writing that it will abide by and accept all terms of the chapter and the license or franchise, and that it will assume all obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the

previous licensee or franchisee under this chapter and the license or franchise for all purposes, including renewal. Approval by the town of a transfer of a license or franchise does not constitute a waiver or release of any of the rights of the town under this chapter or the franchise or license, whether arising before or after the date of the transfer.

2. Every franchisee or licensee shall be subject to the town's exercise of such police, regulatory and other powers as it now has or may later obtain, and a franchise or license may not waive the application of the same.

3. Every franchise or license shall be subject to revocation if the franchisee or licensee fails to comply with the material terms and conditions of the license or franchise, or applicable law. Provided, however, that a franchise or license shall not be revoked unless the franchisee or licensee is given written notice of the defect in performance, and fails to cure the performance within sixty (60) days of the notice, except where the town finds that the defect in performance is due to intentional misconduct, is a violation of criminal law, or is part of a pattern of violations where the franchisee or licensee has already had notice and opportunity to cure. A hearing shall be held before a license is revoked if the licensee requests a hearing.

4. Penalties for violation of franchise or license.

5. Damages for violation of the franchise or license terms. Any remedies available to the town are cumulative, and are not limited by the recovery of any amounts pursuant to the insurance provisions of the license or franchise, or pursuant to any indemnity clause.

6. A requirement that if the franchisee or licensee fails to pay amounts owed to the town by the time prescribed for payment, the franchisee or licensee shall pay interest on the amounts owed, at the rate of one percent (1%) per month.

7. A requirement that franchisee or licensee shall produce books and records for the town's inspection and copying, prepare reports, respond to questions and permit the town to have access to its facilities as the town may request in order to determine whether licensee or franchisee has complied with its obligations under the franchise or license, or other applicable law.

C. Renewal

A licensee that receives a telecommunications service license pursuant to this chapter may apply for a renewal of its license, which renewal shall be reviewed in accordance with the requirements of state law.

D. No Warranty

The issuance of a license, permit or other authorization by the town is not a representation or warranty that such license, permit, or authorization is a legally sufficient substitute for a franchise, and it not a representation or warranty that a franchise is not required.

E. Term

Any license granted by the town pursuant to this chapter shall commence upon adoption of the license and acceptance of the license by the provider within thirty (30) days of the grant. The license shall be effective for a period of five (5) years, and subject to the conditions and restrictions provided in the instrument and this chapter.

Section 13-9-5 COMPENSATION

A. The town shall not levy a tax, rent, fee or charge to a telecommunications corporation for the use of a public highway to provide telecommunications services, or levy a tax, fee or charge upon the privilege of engaging in the business of providing telecommunications services, except that, in connection with its provisions of telecommunications services and its use of the highways to provide the same, each telecommunications corporation shall:

1. Pay a transaction privilege tax on the business of providing telecommunications services or applicable use tax, as may be specified from time to time in Chapter 9-A of the Wickenburg Town Code.

2. Pay public highway construction permit fees and utility poles and wires construction permit fees established from time to time by the town.

3. Pay all reasonable costs associated with the construction, maintenance and operation of its facilities in the public highways used to provide telecommunications services, including reasonable costs associated with damage caused to the public highways.

B. Nothing in this section is intended to limit the obligation of any person to pay amounts owed under any franchise of license. Provided that, for franchises or licenses issued after the effective date of this ordinance, payments required under such franchise or license for the provision of telecommunications services shall comply with the provisions of A.R.S. Section 9-581.

ARTICLE 14

ZONING

ORDINANCE NO. 1078

ADOPTED OCTOBER 4, 2010

ZONING

TABLE OF CONTENTS

ARTICLE		PAGE
	Zoning Ordinance 1078	3
14-1	Title and Purpose	4
14-2	General Rules	5
14-3	Zoning Districts and Boundaries	6
14-4	Single Family Residential Districts	8
14-5	Reserved For Future Use	13
14-6	Reserved For Future Use	14
14-7	RM-1 and RM-2 (Multiple Family Residential)	15
14-8	Reserved For Future Use	18
14-9	MHP/RVP Districts (Mobile Home Park Residence)	19
14-10	PSC District (Planned Shopping Center)	25
14-11	Commercial Districts	28
14-12	Resort and Recreation District	35
14-13	MUDD District (Mixed Use Development)	37
14-14	Industrial Districts	40
14-15	Reserved For Future Use	44
14-16	Well Head Protection Overlay Zone	45
14-17	Off-Street Parking and Loading Regulations	48
14-18	Sign Regulations	52
14-19	Landscaping, Irrigation and Lighting Regulations	75
14-20	Wireless Communication	83
14-21	General Additional Regulations	89
14-22	Overlay Zones and Areas	95
14-23	Hearing Bodies	103
14-24	Administration	106
14-25	Development Review	132
14-26	Non-Conforming Uses	144
14-27	Penalty and Violation	145
14-28	Repeal, Void Parts, Saving Clause, Effective Date	148
14-29	Glossary Of Terms and Definitions	149

ORDINANCE NUMBER 1078

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA, REPEALING THE "1979 WICKENBURG ZONING ORDINANCE" AND ALL AMENDMENTS THERETO EXCEPT REZONING ORDINANCES AFFECTING SPECIFIC PROPERTY AND THE MAP ENTITLED "1979 ZONING MAP OF THE TOWN OF WICKENBURG, ARIZONA"; AND ADOPTING THE "ZONING ORDINANCE OF THE TOWN OF WICKENBURG, ARIZONA" BY REFERENCE, INCLUDING THE ADOPTION BY REFERENCE OF THE MAP ENTITLED "THE 2010 ZONING MAP, TOWN OF WICKENBURG, ARIZONA" SETTING FORTH REGULATIONS FOR THE USE OF LAND IN THE TOWN, INCLUDING GENERAL RULES OF CONSTRUCTION AND INTERPRETATION OF THE ZONING ORDINANCE; LAND USE REGULATIONS FOR SINGLE FAMILY RESIDENTIAL DISTRICTS, RM-1/ RM-2 DISTRICTS - MULTIPLE FAMILY RESIDENTIAL, MHP/RVP DISTRICTS– MOBILE HOME PARK RESIDENCE DISTRICTS, PSC DISTRICT – PLANNED SHOPPING CENTER DISTRICTS, COMMERCIAL DISTRICTS, RESORT AND RECREATION DISTRICTS, MUDD DISTRICTS - MIXED USE DEVELOPMENT DISTRICTS, INDUSTRIAL DISTRICTS, WELL HEAD PROTECTION OVERLAY ZONES INCLUDING PERMITTED USES, SETBACK, HEIGHT, MINIMUM LOT AREA AND LOT COVERAGE REQUIREMENTS, OFF-STREET PARKING AND LOADING REGULATIONS, SIGN REGULATIONS, LANDSCAPING, IRRIGATION AND LIGHTING REGULATIONS, WIRELESS COMMUNICATIONS REGULATIONS, GENERAL ADDITIONAL REGULATIONS; SETTING FORTH REQUIREMENTS FOR, OVERLAY ZONES AND AREAS; ESTABLISHING HEARING BODIES AND THE DUTIES OF SUCH HEARING BODIES; SETTING FORTH ADMINISTRATIVE REGULATIONS INCLUDING PROCEDURES FOR ADOPTION AND AMENDMENT OF REZONING ORDINANCES, THE ZONING ORDINANCE, AND THE GENERAL PLAN, APPROVAL OF USE PERMITS AND VARIANCES, REQUESTS FOR INTERPRETATION OF THE ZONING ORDINANCE, PROCEDURES FOR ANNEXATION, CLAIMS FOR DIMINUTION OF VALUE, PROTECTED DEVELOPMENT RIGHTS, AND APPEALS OF DEDICATIONS, EXACTIONS AND ZONING REGULATIONS; PROVIDING FOR DEVELOPMENT REVIEW INCLUDING DESIGN GUIDELINES; SETTING FORTH REGULATIONS FOR NON-CONFORMING USES; PROVIDING A GLOSSARY OF TERMS AND DEFINITIONS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY

WHEREAS, The Town of Wickenburg desires update its Zoning Ordinance to promote the public health, safety and general welfare of the residents of the Town, to comply with new laws and to be more easily used by Town staff and the general public; and

WHEREAS, the Town of Wickenburg does not intend by the adoption of this Zoning Ordinance to rezone land to change the zoning classification of existing land uses within existing zoning districts, but rather to update land use regulations with zoning districts and create additional zoning districts to benefit future uses; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 23, 2010 and before the Town Council on October 4, 2010, 2010 in compliance with A.R.S. § 9-462.04.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL of the Town of Wickenburg, County of Maricopa, State of Arizona as follows:

Section I In General

Those certain documents known as the "2010 Town of Wickenburg Zoning Code Amendments" and the "2010 Zoning Map of the Town of Wickenburg", three copies of which shall remain on file in the office of the Town Clerk, are hereby declared to be public records.

The Town Code of the Town of Wickenburg, Arizona shall be amended by adopting by reference those public records entitled the "2010 Town of Wickenburg Zoning Code Amendments" and the "2010 Zoning Map of the Town of Wickenburg" which documents are hereby adopted and incorporated by reference.

Section II Providing For Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section III Providing For Severability

If any Section, Sub-Section, sentence, clause, phrase or portion of this Ordinance, or any part of the Code adopted herein by reference, 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.

Section IV Providing For Penalties

1. A citation issued pursuant to Section 14-27-5 shall direct the person to whom the citation is issued to pay a fine in the amount of not more than three hundred dollars ($300) for each offense. Payment of the fine shall constitute a finding of responsibility for the violation for purposes of Section 14-27-7.
2. Upon a finding by the magistrate court that a person is responsible for a civil violation. That person, corporation, or other legal entity shall be subject to a civil fine of not more than $300 for each violation imposed by the Town magistrate court.
3. Any judgment for civil fines or penalties may be collected as any other civil judgment, as provided for in the Arizona revised statutes.
4. Any person found responsible by the magistrate court for committing three or more civil violations of the Zoning Code, a Zoning Ordinance, a Use Permit, variance or design review approval within a twenty-four-month period, whether by admission, by payment of the fine, by fault or by judgment after hearing shall be determined to be a habitual offender. For purposes of calculating the twenty-four-month period under this Subsection a, the dates of the Commission of the offenses are the determining factor. A habitual offender who subsequently violates the Zoning Code, a Zoning Ordinance, Use Permit, variance, or design review approval shall be guilty of a Class 1 Misdemeanor Offense and shall be subject to the penalties set by the Arizona revised statutes. Notwithstanding the above elective penalty, upon conviction of a habitual offender of a violation of the Zoning Code, a Zoning Ordinance, a Use Permit, variance, or design review approval, the court shall impose a fine of not less than five hundred dollars for each count upon which a conviction is obtained. A judge shall not grant probation to a habitual offender or suspend any part of a sentence or fine imposed upon a habitual offender for any sentence required by this Subsection, except on the condition that the habitual offender pays the fine imposed by the court, as provided in this Section.
5. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to misdemeanors and the Arizona Rules of Criminal Procedure.
6. A person who fails or refuses to provide evidence of his or her identity to the Town Zoning Administrator, building official, building inspector, the Code enforcement officer, a police officer or any other authorized agent of the Town upon request, when such agent has reasonable cause to believe the person has committed a violation of the Zoning Code, is guilty of a class 1 misdemeanor. Evidence of identity shall consist of a person's full name, residence address, and date of birth.

APPROVED, PASSED AND ADOPTED by the Mayor and Common Council of the Town of Wickenburg, Arizona, this 4th day of OCTOBER 2010.

ARTICLE 14-1 TITLE AND PURPOSE

14-1-1 Title
14-1-2 Purpose

Section 14-1-1 Title

This Ordinance shall be known as "The Zoning Ordinance of the Town of Wickenburg, Arizona" and may be referred to as "this Ordinance" or "the Zoning Ordinance".

Section 14-1-2 Purpose

The purpose of this Ordinance is to provide adequate light, air, safety from fire, health and other dangers, while accomplishing the following:

A. Conserve land and building values.

B. Reduce or avoid congestion in the public streets.

C. Promote the public health, safety, and general welfare of residents of the Town.

D. Direct growth with a priority to those areas where public services and infrastructure are available or can be economically provided.

E. Ensure consistency and conformity with the General Plan of the Town.

F. Maintain and enhance the appearance of new development.

G. Ensure compatibility among land uses.

H. Ensure the provision of open space for recreation, light, air and fire safety.

ARTICLE 14-2 GENERAL RULES

14-2-1 General Rules for Language Construction
14-2-2 Interpretation of the Zoning Ordinance

Section 14-2-1 General Rules For Language Construction

The following rules of construction shall apply:

A. The particular controls the general.

B. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:

1. "And" indicates that all connected words or provisions shall apply.

2. "Or" indicates that the connected words or provisions may apply singly or in any combination.

3. "Either . . . Or" indicates that the connected words or provisions shall apply singly but not in combination.

C. References to Departments, Commissions, Boards, or other offices are to those of the Town unless otherwise indicated.

D. References to a public official in the Town are to that person who performs the function referred to and includes a designee of such official.

E. References to days are to calendar days unless otherwise indicated.

F. References to measurements are in feet unless otherwise indicated.

G. The words "activities" and "facilities" include any part thereof.

Section 14-2-2 Interpretation of the Zoning Ordinance

As development occurs within the Town, questions will arise regarding the requirements of the Zoning Ordinance. This Section sets forth the rules for interpretation of the Zoning Ordinance.

A. Rules of Interpretation.

1. The requirements of this Ordinance are the minimum requirements for development in the Town.

2. This Ordinance is not intended to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this Ordinance imposes a greater restriction, this Ordinance shall control.

3. Where the requirements imposed by this Ordinance are less restrictive than comparable requirements imposed by any other provisions of this Ordinance or of any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

B. Interpretation of the Zoning Ordinance. Procedures to request an interpretation of this Ordinance shall be governed by Section 14-24-6.

ARTICLE 14-3 ZONING DISTRICTS AND BOUNDARIES

14-3-1 Zoning Districts
14-3-2 Boundaries of Zoning Districts
14-3-3 Boundary Determination

Section 14-3-1 Zoning Districts

In order to (i) classify, regulate, and restrict the location of business, trades, industries, residences and other land uses, and the location of buildings designed for specified uses; (ii) regulate and limit the height and bulk of buildings hereafter erected, reconstructed or structurally altered; (iii) regulate and limit the intensity of the use of lot areas; and (iv) regulate and determine the area of yards, courts and other open spaces within and surrounding such buildings, the Town is hereby divided into Districts as follows

R1-175	Single-Family Residential
R1-87	Single-Family Residential
R1-35	Single-Family Residential
R1-18	Single-Family Residential
R1-12	Single-Family Residential
R1-9	Single-Family Residential
R1-6	Single-Family Residential
RM-1/-2	Multiple Family Residential
MHP/RVP	Mobile Home Park Residential/Recreational Vehicle Park
PSC	Planned Shopping Center
MUDD	Mixed Use Development
C-1	Neighborhood Commercial
C-2	Central Business
C-3	Major Street Commercial
RR	Resort and Recreation
I-1	Planned Industrial
I-2	Light Industrial
I-3	Heavy Industrial

Section 14-3-2 Boundaries of Zoning Districts

The boundaries of these districts are shown on the map made a part of this Ordinance, which map is designated as the "Zoning District Map." The Zoning District Map and all the notations, references, and other information shown thereon are made a part of this Ordinance by reference and have the same force and effect as if the Zoning District Map and all the notations, references and other information shown thereon were all fully set forth or described herein.

Section 14-3-3 Boundary Determination

A. Where uncertainty exists with respect to the boundaries of any zoning district as shown on the Zoning District Map, the following rules shall apply:

   1. Where zoning district boundaries are indicated as approximately following street or alley lines or the centerlines thereof, such lines shall be construed to be the zoning district boundaries.

   2. Where zoning district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the zoning district boundaries.

3. Where zoning district boundaries are indicated as approximately following the line of any stream, irrigation canal or other waterway, or railroad right-of-way, or the boundary line of public land, the center of such stream, canal, or waterway, or of such railroad right-of-way, or the boundary line of such public land shall be construed to be the zoning district boundaries.

4. In unsubdivided land or where a zoning district boundary divides a lot or parcel of land, the location of such boundary, unless indicated by dimensions shown on the Zoning District Map, shall be determined by the use of the scale appearing on said map.

5. Where such boundaries have been changed by the Council pursuant to Article 14-24 and where such changed boundaries are shown on a detailed map, the detailed map shall govern in the event there is any difference between the boundaries shown on the Zoning District Map or subsequent amendments thereto, and the detailed map.

B. All territory which may hereafter be annexed into the Town shall be placed in zoning classifications which permit densities and uses no greater than those permitted by the County having jurisdiction immediately before annexation. Subsequent changes in zoning of the annexed territory shall be made pursuant Section 14-24-2.

C. Whenever any street, alley or other public way is vacated by official action of the Council, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended zoning districts.

D. Except as hereinafter provided:

1. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except in conformity with the regulations of the district in which the building or land is located.

2. The minimum yards and other open spaces required by this Ordinance for buildings shall not be encroached upon or considered as meeting yard or open space requirements for any other building.

3. No lot area shall be reduced beyond the minimum lot area required by the district regulations set forth in this Ordinance.

4. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one (1) principal building on one (1) lot.

ARTICLE 14-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

14-4-1 Purpose
14-4-2 Permitted Uses Matrix
14-4-3 Additional Regulations
14-4-4 Height, Yard, Area and Density Regulations
14-4-5 Development Review Guidelines For Single Family Residential Developments

Section 14-4-1 Purpose

The principal purpose of these zoning districts is to conserve and protect the existing and future single family residential character of the Town, taking into consideration existing conditions including the present size of lots, use of land and availability of utilities and future land use needs, and accommodating the varying lifestyles of the community from low density, equestrian estates to more urban type medium density residential uses.

Section 14-4-2 Permitted Uses Matrix

The following matrix sets forth permitted and conditionally permitted uses in all Single-Family Residential Districts:

USES	SPECIAL REQUIREMENTS	ZONING DISTRICT						
		All Single-Family Residential Districts						
		R1-175	R1-87	R1-35	R1-18	R1-12	R1-9	R1-6
Accessory Buildings and Uses		X						
Agriculture		X	X	X	-	-	-	-
Bed and Breakfast Lodging		C	C	C	-	-	-	-
Cemetery or Mausoleum		C						
Community Center		C						
Fairs, Circuses, Outdoor Concerts and Other Special Events		T						
Farms		X	X	-	-	-	-	-
Farm Stands		X	X	X	X	X	X	X
Funeral Homes		C						
Golf Course Including Clubhouse(s) and Driving Range(S) Located Thereon, but not Including Miniature Courses.		C						
Group Homes for the Handicapped		C						
Guest Ranch		C	C	C	-	-	-	-
Home Occupations		X						
Horse Boarding		C	C	C	-	-	-	-
Mobile Home and Travel Trailer Parks on Sites With Less Than 10 Acres		C						
Modular Home		X	X	X	X	X	X	X
One Single Family Dwelling Per Lot		X						
Park, Playground, Recreation Field and Public Buildings Owned or Operated by a Public Agency		X						
Pocket Park		X	X	X	X	X	X	X
Privately and Commercially Operated Recreational Lake, Swimming Pool, Tennis Court		C						
Seasonal Produce Stand		X						
Public School and or Private School		C						
Religious Assemblies		X	X	X	X	X	X	X
Roping Arena		X	X	X	-	-	-	-
Seasonal Temporary Uses		T						
Television / Radio Stations and Transmitters		C						
Temporary Buildings		A						
Wireless Communication Facility		C						
Yard and Garage Sales		X						

x = permitted, c = Conditional Use Permit required, t = Temporary Use Permit required, A= administrative Use Permit, "-" = not permitted

Section 14-4-3 <u>Additional Regulations</u> * Ord. 1166

A. Accessory Buildings and uses shall be limited to the following and shall comply with the requirements of Section 14-21-4:

1. Private garage, garden house, tool house.
2. Guest house.
3. Quarters for servants and caretakers employed on the premises, but not as a rental unit.
4. Private swimming pool.
5. Tennis Court.
6. Sport Court.
7. Barns.
8. Medical marijuana qualifying patient cultivation and designated caregiver cultivation, limited to cultivation for one (1) qualifying patient of up to twelve (12) medical marijuana plants in compliance with A.R.S. §36-2806.01. [8]

B. Group homes for the handicapped shall comply with the following standards:

1. A maximum of ten (10) residents per home, not including staff.

2. No sign, graphics, display or other visual means of identifying the group home, other than the address visible from a public street.

3. Compliance with all applicable Building and Fire Safety Regulations. If a group home has one (1) or more non-ambulatory residents, additional building Code requirements to protect such residents shall apply.

4. A separation between such group homes of a minimum of eight hundred feet (800').

5. Registration with the Planning Department.

6. Any license, certification, or registration required for the group home by a State or Federal agency shall be obtained and a copy provided to the Town.

7. On-site parking spaces consistent with the requirements of Article 14-17 and the configuration and design approved by the Zoning Administrator to preserve the residential character of the home. The Town may require landscaping to screen parking spaces.

8. No group home for the handicapped shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of other persons. Any conflicting or more stringent requirement established by State or Federal law or regulation of a specific type group home for the handicapped (such as a group home for the developmentally disabled pursuant to A.R.S Section 36-582 or an assisted living home pursuant to A.R.S. Title 36, Chapter 4) shall apply in addition to the conditions listed herein and shall preempt any conflicting condition listed herein. If the owner of a group home for the handicapped believes any requirement of the Zoning Ordinance prevents the establishment of a group home for the handicapped in an economically viable manner, the owner shall submit to the Zoning Administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Zoning Administrator to make an individualized determination of the group home's needs, to address the Town's safety and welfare concerns, and to assure compliance with this Section. The Zoning Administrator shall review the written request and make a determination within five (5) working days upon receipt of the letter. The following items shall be determined:

[8] Ord. 1085/4-11
*Ord. 1166/11-16

a. Whether an accommodation should be made pursuant to the requirements of the Fair Housing Act; and
b. If so, the nature of the accommodation taking into consideration the requirements of the Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood.

. The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act.

C. Home Occupations (including home professions) shall first receive approval by the Zoning Administrator and comply with the following requirements:

1. The Home Occupation shall not detract from or change the character or exterior of the residence.

2. No one other than the residents of the dwelling unit shall be employed in the conduct of the Home Occupation.

3. There is no storage of mechanical equipment except for that which is customarily used for domestic, hobby, or household purposes. Properties within the R1-175, R1-87 and R1-35 shall be exempt from this requirement.

4. The total area used in the conduct of the Home Occupation shall not exceed fifteen percent (15%) or two hundred fifty (250) square feet of the habitable dwelling, whichever is less.

5. There are no outside storage of any kind related to the Home Occupation.

6. There are no commodities sold on the premises.

7. A Home Occupation includes the use of the dwelling unit by professional persons for consultation, but not for the general practice of the profession.

8. The Home Occupation shall not contribute to additional traffic volume within the residential neighborhood.

9. There shall be no advertising of the Home Occupation on the premises.

10. The Home Occupation shall not create any disturbing or offensive activity, noise, vibration, smoke, dust, odor, heat, glare, or other unhealthy or unsightly condition.

11. The Home Occupation shall not create a traffic or parking problem as deemed by the Zoning Administrator.

12. There shall be sufficient parking on-site, and there shall be no off-site parking, for any employees, clients, customers or general public visits to the residential property for business purposes.

13. Hazardous Materials: none of the following materials shall be used or stored on the premises:
    a. Class A, B, or C explosives, with the exception of hobby reloading as defined by the Uniform Fire Code.
    b. Class A, B poisons.
    c. Flammable combustible liquids over five gallons, unless in a mobile unit or watercraft.
    d. Corrosive/oxidizing chemicals other than what are normally consumed on premises for normal use (drain cleaner, pool chemicals, etc.).
    e. Hazardous materials as defined by the Environmental Protection Agency (EPA).
    f. Pesticides registered under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1979, which are not used around the home for personal consumption.

D. Modular homes shall be certified by the State of Arizona Department of Building and Fire Safety, Office of Manufactured Housing as a factory built building which has been constructed in compliance with an approved plan pursuant to A.R.S. Title 41, Chapter 16, Article 2. Compliance shall be indicated by a blue metal tag affixed to the unit by the Office of Manufactured Housing.

1. The unit shall be certified by the State of Arizona Department of Building and Fire Safety, Office of Manufactured Housing as a factory built building which has been constructed in compliance with an approved plan pursuant to A.R.S. Title 41, Chapter 16, Article 2. Compliance shall be indicated by a blue metal tag affixed to the unit by the Office of Manufactured Housing.
2. Modular home applications shall be subject to design review approval by the commission. ***Ord. 1166**
3. All modular homes shall be installed on a permanent foundation and connected to utilities. ***Ord. 1166**

E. Bed and Breakfast Lodging. No more than six (6) guest rooms on one acre or less, ten (10) guest rooms on more than one acre of land.

F. Guest Ranch. The property must be ten (10) acres or more in size and comply with the following requirements:

1. The building coverage shall not exceed fifteen percent (15%) of the gross site area exclusive of any perimeter streets.

2. The lot width must be a minimum three hundred (300) feet.

3. Setbacks shall be:
   a. Front Yard: Seventy-Five (75) feet
   b. All side Yards: Fifty (50) feet
   c. Rear Yard: One Hundred (100) feet

4. There shall not be more than six (6) guest units per acre of gross site area.

5. The maximum height shall not exceed two (2) stories or thirty (30) feet.

6. There shall not be more than one (1) identification sign which does not exceed twenty (20) square feet in area.

7. The guest ranch shall be under unified ownership and management. Not more than twenty (20) percent of the guest units of the guest ranch shall be used for dwelling unit

G. Television/Radio Stations and Transmitters. FAA approval shall be obtained.

H. Temporary Buildings shall be removed upon the earlier of six (6) months from issuance of the Temporary Use Permit or completion of the temporary use. The Commission may approve one (1) six (6) month extension.

I. Yard and Garage Sales shall comply with the following requirements:

1. Five (5) Yard Sales are permitted per year, for a combined total of ninety-six (96) sale hours.

2. Signage shall meet Town requirements as to size, amount, and placement, (for example):
   a. Must not exceed three (3) feet in height.
   b. Must be anchored to the ground and not be placed in the street, median, sidewalk, and/or pedestrian circulation areas.
   c. Allowed only while the event is ongoing.
   d. Must be removed when event has been completed.
   e. No sign permit is required.

*Ord. 1166-11/16

Section 14-4-4 Height, Yard, Area and Density Regulations

Height, yard, area and density regulations for Single Family Residential Districts are as follows:

Zoning District Matrix											
Associated General Plan Land Use Categories	Zoning Districts	Maximum Building Height			Minimum Yard Setbacks				Minimum Lot Area	Minimum Lot Width
	Single Family Residential	*Stories*		*Feet*	*Front*	*Rear*	*Interior Side*	*Street Side*	*Square Feet / Acres*	*Feet*
Rural - 1 du/4 (acres or more)	R1-175	2	AND	30'	60'	65'	30'	40'	175,000	200'
SF Rural (0-2 du/acre)	R1-87	2	AND	30	50'	55'	25'	35'	87,000	175'
SF Rural (0-2 du/acre)	R1-35	2	AND	30	40'	45'	20'	30'	35,000	145'
SF Rural (0-2 du/acre)	R1-18	2	AND	30	30'	35'	15'	20'	18,000	100’
SF Low Density (2-5 du/acre)	R1-12	2	AND	30	30'	35'	10'	15'	12,000	90'
SF Low Density (2-5 du/acre)	R1-9	2	AND	30	25'	30'	8'	12'	9,000	80'
SF Low Density (5-10 du/acre)	R1-6	2	AND	30	20'	25'	6'	10'	6,000	60'

du= dwelling unit(s)

Section 14-4-5 Development Review Guidelines for Single Family Residential Developments

All tract home subdivisions developed within a Single Family Residential District shall comply with Section 14-25 and shall comply with the Subdivision Ordinance set forth in Chapter 11 of the Town Code.

ARTICLE 14-5 **RESERVED FOR FUTURE USE**

ARTICLE 14-6 **RESERVED FOR FUTURE USE**

ARTICLE 14-7 RM-1 AND RM-2 DISTRICTS – MULTIPLE FAMILY RESIDENTIAL

14-7-1 Purpose
14-7-2 Permitted Uses Matrix
14-7-3 Height, Yard and Area Regulations
14-7-4 Development Review Guidelines

Section 14-7-1 Purpose

RM-1: The principal purpose of this zoning district is to make provision for two-family and multiple family dwellings in areas that are suitable and appropriate taking into consideration existing conditions such as present land use, lot sizes and public facilities. This District permits a greater density of population than the single-family residential districts.

RM-2: The principal purpose of this zoning district is to make provision for multiple family dwellings in centrally located portions of the Town that are suitable and appropriate for apartments, townhomes, condominiums and patio homes and that are in close proximity to the Central Business District, Library, and Community Center.

Section 14-7-2 Permitted Uses Matrix

USES	ZONING DISTRICT	
	RM-1 DISTRICT	RM-2 DISTRICT
Accessory buildings and uses	X	
Amusement Parks and Outdoor Theatres	C	
Any Use Permitted in the R1-6 District - Single Family Residential	X	
Boarding and Lodging Houses	X	
Circuses and Carnival Grounds	T	
Funeral Homes and customary accessory uses including cremators as approved by the Town and the appropriate air quality agencies	C	
Hospitals and Clinics	C	
Mini-Warehouses	C	
Multiple-Family Dwellings	X	
Educational or philanthropic institution, but not penal or mental treatment institutions	X	
Modular Buildings	C	
Religious Assemblies	X	
Two-Family Dwellings	X	
Uses Permitted by Conditional Use Permit Within Single Family Residential Districts, – Except Guest Ranches	C	
Zoos	C	

x = permitted, c = Conditional Use Permit required, t = Temporary Use Permit required, "-" = not permitted

Section 14-7-3 **Height, Yard and Area Regulations**

Zoning Districts	Maximum Building Height			Minimum Yard Setbacks				LOT SIZE
MULTIFAMILY DWELLING	*STORIES*		*FEET*	*FRONT*	*REAR*	*INTERIOR SIDE*	*STREET SIDE*	SQUARE FEET
RM-1	2	OR	30	15	20	5/0*	10	6,000 +
	2	OR	30	10	15	5/0*	10	3,500-5999
	2	OR	30	10	10	5/0*	10	3,000-3499
	2	OR	25	10	10	5/0*	10	2,000-2999
	2	OR	20	5	10	5/0*	10	1,500-1999
RM-2	3	OR	40	15	20	5/0*	10	6,000 +
	2	OR	30	10	15	5/0*	10	3,500-5999
	2	OR	30	10	10	5/0*	10	3,000-3499
	2	OR	25	10	10	5/0*	10	2,000-2999
	2	OR	20	5	10	5/0*	10	1,500-1999

* ***IF ATTACHED***

A. Additional Regulations:
   1. Accessory buildings and uses permitted are Home Occupations, private garages, storage garages where the lot is occupied by a multiple family dwelling. If a private garage or storage garage is not part of the main building, it shall be located not less than twenty (20) feet from the front lot line.
   2. In apartment projects, such amenities shall include one or more of the following: tot lots, clubhouse, pool, sports courts, or other such recreational areas which contribute to the overall well-being and livability of the residents within the development.

B. Lot Area Per Dwelling Unit: The minimum lot area per dwelling unit shall be as follows:

TYPE OF DWELLING	MINIMUM REQUIRED AREA PER DWELLING	LOT WIDTH
Single Family Dwelling	6,000 Square Feet	60 Feet
Two-Family Dwelling	3,000 Square Feet	30 Feet
Efficiency Unit	1,500 Square Feet	15 Feet
One Bedroom Dwelling Unit	2,000 Square Feet	20 Feet
Two Bedroom Dwelling Unit	3,000 Square Feet	30 Feet
Three Bedroom Or Larger Dwelling Unit	3,500 Square Feet	35 Feet

C. Where a lot is located in a Multiple Family Residential more than one (1) principal building may be located on the lot but only when the locations of such buildings conform to all the open space requirements around the lot for the zoning district in which the lot is located. Yard regulations in such case may be applied around the principal buildings as though there were only one (1) principal building on the lot.

Section 14-7-4 **Development Review Guidelines**

All development in the RM-1 and RM-2 Multiple Family Residential Districts shall comply with Article 14-25 and the Subdivision Ordinance (as applicable) set forth in Chapter 11.

ARTICLE 14-8 **Reserved For Future Use**

ARTICLE 14-9 MHP DISTRICT MOBILE HOME PARK RESIDENCE AND RVP DISTRICT RECREATIONAL VEHICLE PARK

14-9-1 Purpose
14-9-2 Permitted Uses
14-9-3 Procedural Regulations
14-9-4 Mobile Home Park and Recreation Vehicle Regulations
14-9-5 Prohibition for Mobile Homes

Section 14-9-1 Purpose

MHP: The principal purpose of this zoning district is to make provision for mobile home parks in locations that are suitable and appropriate taking into consideration existing conditions such as the character and use of adjoining land, accessibility from a major street or highway, availability of utilities, present and future needs for such facilities to accommodate permanent residents and traveling public. In general, the intensity of use of mobile home parks is similar to that of low-density multiple family residential developments.

RVP: The purpose of this zoning district is to provide Recreational Vehicle Parks suitable and appropriate in terms of site area, the character of adjacent and nearby land uses, and accessibility to and from a major highway.

Section 14-9-2 Permitted Use Matrix **Ord. 1166**

A. The following are Permitted Uses:

USES	ZONING DISTRICT	
	MHP	**RVP**
Accessory Uses of Laundry Building, Managers Office/ Quarters, and Designated Storage Compound	X	
Limited Commercial Sales as per Section 14-9.a-29-4-B-13	-	X
Mobile Home Parks subject to Section 14-9-3 and 14-9-4	X	
Modular Buildings	X	X
Open Space Facilities	-	X
Recreation Facilities	X	
Service Buildings Consistent with Mobile Home Parks	X	-
Manufactured Home	X	X
Park Model	X	X
Tiny Home	X	X

Section 14-9-3 Procedural Regulations

A. MHP:

1. The MHP District may be approved through the rezoning process set forth in Section 14-24-2.

2. A Plan of Development shall be submitted at the same time an application is filed for a change of zoning to an MHP District.

3. In addition to the requirements of Section 14-25-4, a Conceptual Site Plan shall be submitted and approved by Council concurrently with any application for a change of zoning to an MHP Zoning District. Approval of the Conceptual Site Plan and any additional conditions may be attached to any rezoning approval of the property. The Conceptual Site Plan shall be considered part of the record for the rezoning application.

*Ord. 1166-11/16

4. A Conceptual Site Plan shall include the following information:
   a. The location and arrangement of buildings, structures and other improvements upon the land, including but not limited to walks, roadways, interior and boundary streets, lighting, planting and signs.

   b. A narrative discussing how the proposed use or uses would conform to the requirements and regulations for the specific proposed zoning districts listed above and how the subject parcel of land shall be developed according to the requirements of this Ordinance.

5. The Commission shall hold a public hearing for the purpose of making a recommendation for both the plan and rezoning request in accordance with procedures presented in Section 14-24-2.

6. The Commission shall submit its written recommendations to Council together with its reason for recommending approval, approvals with conditions, or denial. If recommended for approval, or approval with conditions, specific evidence and facts shall be shown that the site plan for a Mobile Home Park meets the requirements of the regulations of the MHP District.

7. Permits for construction or development of an MHP shall not be issued until after zoning approval has been granted and the project is reviewed by the Zoning Administrator, Building Official, Town Engineer, Fire Chief, and any other applicable person or position as determined by the Zoning Administrator.

B. RVP:
   1. Each application for Recreational Vehicle Park zoning shall be accompanied by a Conceptual Site Plan which shall include the following:
      a. Site Plan: Fully dimensioned and including the location of all structures, recreational vehicle pads, recreation/open spaces, driveways and parking areas, designated storage compound, walls, sidewalks, landscape areas and other elements of the park.
      b. Landscape Plan: Including a schematic representation of the location of all plant materials and screening walls, a plant materials schedule including plant name and variety, number used in plan, on center spacing when appropriate and plant characteristics.
      c. Building Elevations for all on-site structures.
      d. Details of all perimeter walls, designating material and finish.
      e. By note or narrative a list of the proposed accessory uses.

   2. A Conceptual Site Plan shall be required to be submitted and approved by Council concurrently with any application for a change of zoning to and RVP Zoning District.

   3. A Conceptual Site Plan shall include the following information:
      a. The location and arrangement of buildings, structures and other improvements upon the land, including but not limited to walks, roadways, interior and boundary streets, lighting, planting and signs.
      b. A narrative discussing how the proposed use or uses would conform to the requirements and regulations for the specific proposed zoning districts listed above and how the subject parcel of land shall be development according to the requirements of this Ordinance.

   4. The Conceptual Site Plan and all supplemental data thereto shall be reviewed by the Commission and may be denied or forwarded with a recommendation to the Town Council in accordance with Article 14-24. The Town Council shall approve the Conceptual Site Plan prior to the adoption of the requested zone change.

   5. Permits for construction or development of an MHP shall not be issued until after zoning approval has been granted and the project is reviewed by the Zoning Administrator, Building Official, Town Engineer, Fire Chief, and any other applicable person or position as determined by the Zoning Administrator.

Section 14-9-4 **Mobile Home and Recreational Vehicle Park Regulations**

ZONING DISTRICTS	MAXIMUM BUILDING HEIGHT			MINIMUM YARD SETBACKS				MINIMUM LOT AREA	MINIMUM LOT WIDTH
	STORIES		*FEET*	*FRONT*	*REAR*	*INTERIOR SIDE*	*STREET SIDE*	*ACRES*	*FEET*
MHP	1	OR	15	20	10	8	8	10	25 / 36
RVP	1	OR	15	10	10	5	10	6	25

A. MHP:

1. Ownership: The mobile home park and the buildings and appurtenant facilities shall be under a single ownership or management or supervision of a central authority or subject to such other supervisory lease or ownership control as may be necessary to carry out the provisions of this Ordinance relating to mobile home parks.
2. Area: The Mobile Home Park Site Plan shall contain a gross area of not less than ten (10) acres.
3. Utilities: Every mobile home space or site shall be provided with permanent underground connections and underground distribution lines for electric power, water supply and sewage disposal in compliance with applicable Town ordinances.
4. Parking Regulations: Parking regulations are as set forth in Article 14-17 of this Ordinance.
5. Space and Setback Regulations: The following are mobile home space and travel trailer space and setback requirements for Mobile Home Parks:

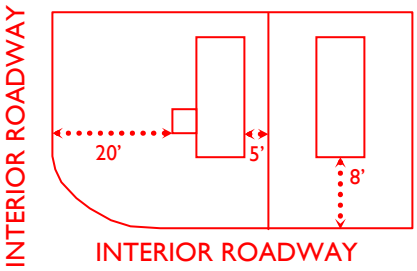
   a. Each mobile home space shall have an area of not less than three thousand (3,000) square feet and a width of not less than thirty six (36) feet, and each travel trailer space shall have an area of not less than one thousand (1,000) square feet and a width of not less than twenty five (25) feet.

   b. The number of spaces designed or used for travel trailers shall not exceed twenty percent (20%) of the total number of spaces provided in such mobile home park.

   c. Mobile Homes shall provide the following minimum setbacks:

      i. No less than eight (8) feet from the nearest edge of any interior drive or roadway.

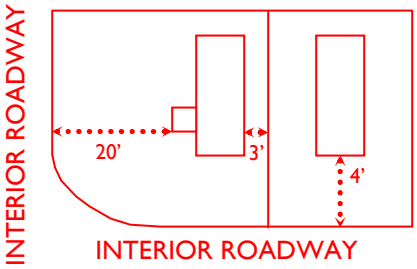
      ii. No less than five (5) feet from any mobile home space boundary not in common with the edge of any interior drive or roadway, except that in the case of mobile home spaces having boundaries in common with two (2) or more interior drives or roadways, the minimum setback from the nearest edge of interior drives or roadways shall not be less than twenty (20) feet on the mobile home's entry side and not less than five (5) feet on the mobile home's non-entry side.



d. Travel trailers shall provide the following minimum setbacks:

i. No less than four (4) feet from the nearest edge of any interior drive or roadway.

ii. No less than three (3) feet from any mobile home space boundary not in common with the edge of an interior drive or roadway except that in the case of a travel trailer space having boundaries in common with two (2) or more interior drives or roadways, the minimum setback from the nearest edge of interior drives or roadways shall be not less than twenty (20) feet on the travel trailer's entry side and not less than three (3) feet on the travel trailer's non-entry side.



e. Travel trailers may be located on mobile home spaces but the minimum setbacks required of mobile homes shall be provided.

f. The location of mobile homes on travel trailer spaces shall be prohibited.

g. The minimum distance between mobile homes or travel trailers in the same Mobile Home Park shall be ten (10) feet.

h. Service buildings to house toilet, bathing and other sanitation facilities and utilities shall be provided as required by the Maricopa County Health Department.

i. Minimum distance or setbacks required herein shall be the shortest of horizontal dimensions measured from the nearest portion of the sidewall of a mobile home or travel trailer, or from the patio cover, carport, cabana, ramada or similar appurtenances.

j. The Mobile Home Park shall be enclosed on all sides, excluding driveways, by a decorative solid wall, opaque fence or suitable plant materials not less than three and one half (3 ½) feet nor more than six (6) feet in height on sides adjoining a street and not less than six feet (6') in height along all other sides of the Mobile Home Park. Wall and fence design standards to be followed are outlined in Section 14-21.

6. Landscaping and open space requirements for Mobile Home Parks and subdivisions are outlined in Article 14-19.

B. RVP:

1. Minimum site area shall be no less than six (6) acres.

2. Maximum density shall not exceed twenty (20) recreational vehicles spaces per acre.

3. Minimum space size shall be no less than twenty-five (25) feet x fifty (50) feet.

4. Minimum paved parking pad area per space shall not be less than twelve (12) feet x fifty (50) feet. No graveled area shall be allowed within any parking, driving, or any other area where vehicles may travel within the RV Park.

5. Development shall comply with open space standards as outlined within Section 14-19-8 for RV Parks.

6. Setbacks:
   a. All yards which are adjacent to a street right-of-way line shall require a minimum landscape setback of twenty (20) feet, at back of which shall be installed a six (6) foot wall.
   b. Perimeter: No recreational vehicle space shall be located within twenty (20) feet of perimeter property lines and/or thirty (30) feet of a public street right-of-way line.
   c. There shall be a minimum separation of ten (10) feet between all Recreational Vehicle Parking pads.

7. Access
   a. There shall be no direct access from a recreational vehicle space to a public street or alley.
   b. All recreational vehicle spaces or appurtenant/accessory uses shall be served by internal private streets having a minimum width of twenty-five (25) feet. All internal private streets shall be surfaced and maintained with not less than two (2) inches of asphalt (plant mixed) placed over four (4) inches of aggregate base or equivalent.

8. Storage: A storage area shall be provided for the storage of personal goods, boats and other accessory recreational vehicle. No outside storage or storage structures shall be allowed except in the designated compound.

9. Utilities: All utilities within the Park shall be placed underground.

10. The Recreational Vehicle Park, including all structures, accessory and appurtenant uses, and facilities shall be under single ownership or under management or supervision by a central authority who will be responsible for initial and perpetual compliance with the provisions of this Ordinance and any stipulations or conditions attached to the property at the time the Council approves a rezone and development plan request.

11. Not more than one (1) recreational vehicle shall be allowed per designated space.

12. Limited commercial sales such as a convenience store are permitted when incorporated into the design of an RV Park:

    a. Sale of convenience type items to those persons occupying a space in the park or their guests subject to the following restrictions:

       i. The use must be specifically approved by the Commission and Town Council with the zone change request, filed pursuant to Article 14-24-2.
       ii. All sales of convenience items shall occur within an enclosed building.
       iii. The maximum building area devoted to the sale of convenience items shall not exceed one thousand (1,000) square feet.
       iv. The sale and filling of propane tanks is permitted while the sale of gasoline and/or diesel fuel is prohibited.
       v. Signs advertising the sales area shall not be visible to the general public and shall be limited to an aggregate of thirty-two square feet (32^2') including directional signs.
       vi. The area occupied by the structure used for the sale of convenience items shall not be included in the required open/recreational space.
       vii. Architecture of the building devoted to the limited commercial sales shall be integrated into the design of the RV Park and shall comply with the following design guidelines:

          (a) The use of design methods such as window, column, and facade treatments to create undulation and reduce the massing of the building.

          (b) That the design of the building shall have a residential character to negate potentially negative impacts to surrounding residential neighborhoods and districts

Section 14-9-5 **Prohibitions on Mobile Homes**

No mobile home shall be placed in any zoning district except an MHP District within the boundaries of the park. A permit must be obtained for placement of any mobile home pursuant to both state and local statutes.

ARTICLE 14-10 PSC DISTRICT PLANNED SHOPPING CENTER

14-10-1 Purpose
14-10-2 Procedural Regulations
14-10-3 Permitted Uses
14-10-4 Yard and Height Regulations
14-10-5 Parking Regulations
14-10-6 Conceptual Site Plan Review Criteria and Additional Regulations

Section 14-10-1 Purpose

The principal purpose of this zoning district is to provide for well designed and attractive retail shopping facilities on sites in appropriate locations to serve adjacent and nearby residential neighborhoods. Permitted uses in this zoning district include the retail sale of merchandise and services customarily considered as shopping center uses.

Section 14-10-2 Procedural Regulations

A. The Planned Shopping Center Zoning District may be approved through the rezoning process set forth in Section 14-24-2.

B. The Commission shall review any PSC development plan according to the following:
   1. The recommendation of the Commission shall include the reasons for approval or disapproval of the plan, and if recommended for approval, specific evidence and facts showing that the plan meets the requirements of the regulations for the Planned Shopping Center Zoning District.
   2. The recommendation of the Commission may include reasonable additional requirements as to landscape treatment including grading and planting plants, vehicular ingress and egress, signs, lighting, screening and set-back of buildings.
   3. The Commission may require a traffic analysis showing the road for a shopping center in the location requested and the inadequacy of the existing zoning to meet this need, and such other information deemed necessary to achieve the purpose of the Planned Shopping Center Zoning District.

Section 14-10-3 Permitted Uses

A. A building or premises shall be used only for the following purposes:
   1. Retail sale of merchandise, services, recreational and otherwise, parking area and other facilities customarily considered as shopping center uses.

   2. Accessory Businesses pursuant to Article 14-11-3

   3. Signs: Sign regulations are provided in Article 14-18 hereof.

   4. Uses permitted on the shopping center site in existence prior to the establishment of the Planned Shopping Center Zoning District shall be permitted to continue as a legal non conforming use.

   5. Temporary Uses: The Zoning Administrator may issue a Temporary Use Permit for the following temporary uses:
      a. Outdoor Sales subject to all requirements in Section 14-11-3.

      b. Merchandise may be displayed on private sidewalks adjacent to buildings occupied by a bona fide Town merchant subject to compliance with the requirements set forth below:

i. The business has a valid Town Business Permit.
ii. A minimum passage of four feet (4') is maintained for pedestrian traffic at all points.
iii. Towns' Fire Chief must approve the display of any flammable material.
iv. All merchandise displayed on the private sidewalk shall consist of goods that are regularly stocked by the bona fide Merchant.
v. The area shall not be used for storage.
vi. The area shall remain free of boxes, pallets, packing material or other refuse.

c. The following temporary use is allowed, upon issuance of a permit by the Zoning Administrator:
   i. Seasonal temporary uses such as Christmas tree sales at Christmas and pumpkin sales at Halloween lasting no more than thirty (30) days.

d. Temporary Signs and Attention Getting Devices as follows:

   i. Banners, spinners, balloons, window signs, etc., in conjunction with outdoor sales.
   ii. Special event window signs for a period of thirty (30) days in conjunction with annual events such as the Desert Caballeros Ride, Gold Rush Days, Bluegrass Festival or other events sponsored and coordinated by the Chamber of Commerce or the Town.
   iii. Two (2) sixteen (16) square feet signs in conjunction with temporary uses.
   iv. Temporary Signs may be allowed in accordance with the following:
      (a) No such sign or attention getting devices shall in any way interfere with the safe and orderly flow of traffic or in any way present a danger to the health, safety and welfare of the public at large.
      (b) A Permit authorizing the use of Special Attention Getting Devices must be issued by the Planning and Building Department prior to the installation of said devices. In order to obtain the Permit, the applicant shall make application to the Planning and Building Department along with the required fees as established by resolution of the Council and a plan depicting or narrative describing, the type and location of all Special Attention Getting Devices to be utilized on site.

Section 14-10-4 **Yard and Height Regulations**

ZONING DISTRICTS	MAXIMUM BUILDING HEIGHT			MINIMUM YARD SETBACKS (IN FEET)			
COMMERCIAL	*STORIES*		*FEET*	*FRONT*	*REAR*	*INTERIOR SIDE*	*STREET SIDE*
PSC	2	OR	30	50	50	50	50

MINIMUM LOT AREA	MINIMUM LOT WIDTH	LOT COVERAGE MAXIMUM
ACRES	*FEET*	
5 ACRES	NONE	NONE

Section 14-10-5 **Parking Regulations**

Parking requirements for the PSC Zoning District are set forth in Section 14-17-2.

Section 14-10-6 <u>Conceptual Site Plan Review Criteria and Additional Regulations</u>

A. Conceptual Site Plan Review Criteria:

1. The site shall be a minimum of five (5) acres in size

2. The shopping center site and the buildings and appurtenant facilities shall be in a single ownership or under management or supervision of a central authority; or they shall be subject to other supervisory lease or ownership control as may be necessary to carry out the purpose of regulations relating to the Planned Shopping Center Zoning District.

3. The Conceptual Site Plan shall set forth the proposed design of the shopping center in conformance to this Ordinance and other guidelines which may exceed the minimum requirements for architecture, landscaping, open space, and parking.

4. Residential zoned property may be rezoned to the Planned Shopping Center (PSC) Zoning District provided that the five (5) acres is located at an intersection. Further, the PSC Zoning District may be included as part of a larger development which may include a combination of both residential and commercial areas.

B. The additional regulations are as follows:

1. The shopping center buildings may be designed and built as a whole, unified, and single project or in phases. If constructed within phases, a minimum of twenty-five percent (25%) of the entire project shall be constructed within the first phase. Compliance with the Landscaping Section shall be required in full as outlined within Section 14-19-7.

2. Any part of the shopping center site not used for buildings or other structure, loading and access ways, or pedestrian walks shall be landscaped with grass, trees, or shrubs.

3. Any lighting shall be placed so as to reflect the light away from adjoining zoning districts.

ARTICLE 14-11 COMMERCIAL DISTRICTS

14-11-1 Purpose
14-11-2 Permitted Uses Matrices
14-11-3 Additional Regulations
14-11-4 Yard, Height, and Area Regulations
14-11-5 Parking and Loading Requirements
14-11-6 Landscaping Requirements

Section 14-11-1 Purpose

The purpose of the commercial zoning districts is provide for the retail, office, and employment needs of the Town by providing a clear concise list of uses in a progression of intensities while providing development guidelines to help mold the character and aesthetics of the community.

C-1 District: The purpose of this zoning district is to provide for shops and services in convenient locations to meet the daily needs of families in the immediate residential neighborhoods. Principal uses permitted in this zoning district include food markets, drugstores and personal service shops.

C-2 District: The purpose of this zoning district is to protect and conserve the central business district, to expedite traffic movement by requiring new business to provide off-street loading and unloading space, to encourage the provision of central public parking facilities, and to provide for business and other uses that serve the entire community.

C-3 District: The purpose of this zoning district is to make provision for commercial uses and services that are needed to serve the local population and persons traveling through the community. Uses permitted in this district are located along major streets to provide convenient access. Permitted uses are required to provide off-street parking and loading and unloading facilities in order to expedite traffic movement on adjoining streets.

Section 14-11-2 Permitted Uses Matrices

USES	Districts		
	C-1	**C-2**	**C-3**
Accessory Buildings		X	
Accessory Business		X	
Adult Uses	-	-	C
Airport and aircraft parking, heliport, helipad or landing area/ runway	-	-	C
Amusement Facility	X	-	X
Antique Stores		X	
Art Galleries		X	
Automobile and Boat sales including display rooms	-	-	X
Automobile and Motorcycle repair shops and garages	-	-	X
Automobile Parts and supplies		X	X
Automobile Rentals	-	-	X

Bakeries, bread, ice cream parlors and candy stores, including the manufacturing of bakery, ice cream and candy products for onsite retail sales only	X		
Banks	X		
Bar, Tavern	-	X	X
Barber and Beauty Shops	X		
Behavior Health Facility			X
Book, Stationery and Gift Stores	X		
Building Materials and Supply Stores	-	-	X
Business Schools, colleges, universities. nursery schools, including art/dancing/vocal/instrumental schools, riding academies, trade/vocational schools	C	C	X
Cabinet and Carpenter Shops	-	-	X
Car Wash	-	-	X
Caretaker's Residence	-	-	X
Cleaning agencies or pressing establishments	X		
Community Centers/Conference Centers	-	X	X
Convenience Stores	X		
Craft Shops which include ceramics, mosaics, fabrics, jewelry, leather goods, silk screening, photography, dress designing, sculpturing and wood carving, clock shops	X		
Child Care Centers	X		
Delicatessen Stores	X		
Dress or Clothing Shops	X		
Drive-in or Drive Through Restaurants	-	-	X
Drug Stores	-	X	X
Farmers Market	-	X	-
Feed Stores	-	-	X
Florist Shops	X		
Funeral Homes and customary accessory uses including cremators[3]	C	C	C
Garage, public	-	X	X
Gasoline Service Stations	-	X	X
Governmental buildings, public utility offices and exchanges but not including storage and repair facilities	-	X	X
Grocery Stores and Meat Markets, provided there is no slaughtering of animals or poultry on the premises	-	X	X
Hardware Stores	X		
Headquarters for non-profit membership organizations	-	X	X
Health Clubs, Gymnasiums and similar facilities	X		
Hospitals	-	-	x
Hospitals and Clinics for animals	-	-	X
Hotels, Motels		X	X
Household Appliance Repair Stores	X		
Household Appliance Stores	X		

Ice Cream Stores		X	
Impound Lot	-	-	X
Jewelry Stores		X	
Key Shop		X	
Laundry agencies and self-service laundries		X	
Liquor Stores limited to retail sales of package goods for off-site consumption		X	
Lofts		X	
Medical and Dental offices and clinics		X	
Medical Marijuana Dispensary 👁			X
Mini-Warehouses	C	C	X
Museums	-	X	X
Nursery, flower and plant sales	-	-	X
Offices	X	X	X
Outdoor Sales	X	X	X
Parking Lots	-	X	X
Pawn Shops and non-chartered Financial Services	-	-	X
Pet Stores	-	-	X
Photographers' and Artists' Studios	X	X	X
Race Track	-	-	C
Radio and Television Stores	C	C	X
Radio and Television Studios, excluding transmitter antennas	-	X	X
Rail and Bus Terminals, Taxi Service, and storage	-	X	X
Restaurants and Cafes	-	X	X
Restaurants including drive-thru services	-	-	X
Restaurants other than drive-in or drive-through restaurants	-	X	X
Service establishments combining retail outlet and showroom with workshops for saddlery and harness, interior decorating, custom dressmaking, custom tailoring, electrical appliance sales and service, millinery, photography, plumbing supplies and parts, printing, rubber stamps, data processing service, and household appliance repair	-	X	X
Shoe Repair Shops		X	
Shopping Center – Large 🚩			X
Swap Meets	T	T	T
Swap Meet, Permanent			C
Tailor Shops	X	X	X
Tattoo Parlors	-	X	X
Taxidermists	-	-	X
Theaters, but not including a drive-in theater	-	X	X
Theaters with drive-in	-	-	X
Urgent Care Facility	-	C	X

👁 Ord. 1084/2-11
🕯 Ord. 1085/4-11
☆ Ord. 1088/6-11
🚩 Ord. 1106/5-12

Section 14-11-3 <u>Additional Regulations</u>

A. Adult Uses

1. Having considered the findings of the Detroit Common Council set forth in the decision of the United States Supreme Court in Young V. American Mini Theaters, 427 U.S. 50 (1976) concerning the experience of the Town of Detroit that adult uses in certain locations contribute to neighborhood deterioration through an increase in crime and diminution of property values, among other adverse consequences; the findings contained in a study made in 1977 by the Los Angeles Department of City Planning entitled, <u>Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles</u> concerning the similar experience of Los Angeles; the Adult Business Study dated May 25, 1979, prepared by the Planning Department of the City of Phoenix, Arizona, reaching similar findings and conclusions; the findings in the Young Decision that important and substantial government constitutional basis for reasonable regulation of the location of adult uses; the City of Renton V. Playtime Theaters Decision in which the United States Supreme Court held that: 1) regulation of the location of adult uses is a valid governmental response to the serious problems created by adult uses provided that 2) said regulations are not under inclusive; 3) that reasonable alternative avenues of communication have been provided, and 4) that in assessing the impact of adult uses, data and evidence collected and generated by other cities may be relevant; the Town Council has determined that persons seeking to operate adult uses shall be required to observe specific location requirements and obtain Conditional Use Permits before they commence business, as provided for in this Section.

2. No Conditional Use Permit shall be granted for any adult use unless all of the following requirements are met:
    a. The adult use is not located within one thousand (1,000) feet of any other adult use.
    b. The adult use is not located within five hundred (500) feet of an establishment that sells or serves alcohol or alcoholic beverages.
    c. The adult use is not located within one thousand (1,000) feet of a public school accredited by the State of Arizona, a private school, a church or public park.
    d. No adult use shall be located on property abutting or immediately adjacent to any zoning district other than C-3, and the under-roof area occupied by said use shall be at least five hundred feet (500') from any of the following zoning districts: All Single Family Residential Districts, Multiple Family Residential Districts, MHP, RVP, C-1, C-2 and PSC. The Council may waive this requirement if a petition requesting such waiver and signed by fifty one percent (51%) of those persons residing within a one thousand foot (1,000') radius is received and verified by the Zoning Administrator.

B. Aircraft Parking shall be located on land contiguous to an approved airport or landing strip.

C. Yard Sales: Yard sales shall be permitted for not-for-profit organizations on commercial properties subject to the following restrictions:
    a. A "No-Fee" Yard Sale Permit is required and available at Town Hall.
    b. No more than two (2) yard sales per organization per calendar year shall be permitted and no longer than three (3) days per sale.
    c. The restriction on conducting the use in a fully enclosed building shall not apply.

D. Parking Lots shall be located adjacent to or across the street or alley from the use for which off-street parking is required.

E. Outdoor Sales in compliance with the following requirements:

1. That Outdoor Sales may be allowed sixteen (16) days out of each calendar year. Multiple day sales are allowed, however, no single sale may exceed four (4) days in length. Only the following are authorized to conduct, or obtain a Permit for Outdoor Sales:

a. Non-profit, charitable or religious organizations and fraternal or service clubs.

b. A Town merchant who shall possess a valid Town Business Permit for a specific identifiable location in a commercial zoning district within the Town. All merchandise offerings shall consist of items normally stocked by the holder of the Business Permit.

c. The site of such sales be kept in a clean and orderly fashion, free of refuse and other debris.

d. No element of the sale will obstruct or interfere with the safe and normal flow of traffic.

e. No element of the sale shall constitute a condition which, in the opinion of the Zoning Administrator, Building Inspector or Fire Chief, presents a danger to the health, safety or welfare of the general public.

2. Private Vehicle Sales on vacant land or upon a business that is not associated with automobile sales is specifically prohibited.

F. Swap Meets for the sale of handcrafted items, antiques, collectibles and used merchandise, subject to the following minimum standards:

a. Minimum Site Area: Two (2) Acres.

b. Parking: As required for uses located in the C-3 Zoning District (Article 14-17, Off Street Parking and Regulations), and subject to the standards of site development as indicated in Article 14-25, Development Review.

c. Setbacks: As required in Article 14-11-4, C-3 Zoning District, Major Street Commercial; however, additional setback requirements may be imposed by the Council depending upon the particular site and situation.

d. Screening: That the portion of the site, which is occupied by vendors, shall be screened from public view by a six foot (6') masonry or wood wall, fifteen (15) gallon screening trees spaced fifteen feet (15') on center, or other appropriate screening as approved by the Zoning Administrator.

G. Incidental or accessory storage, not within a completely enclosed building, shall be screened from adjoining zoning districts by a solid fence or wall at least six (6) feet in height.

1. No outside storage shall be allowed within the C-1 or MUDD Zoning Districts.
2. Outside storage within the C-2 and C-3 Zoning Districts shall require an Administrative Use Permit.

H. Any lighting shall be placed so as to reflect light away from adjoining residential zoning districts.

I. Merchandise for Sale Events permitted as sale items may be displayed on private sidewalks adjacent to buildings occupied by a merchant shall comply with the following requirements:

1. Private Sidewalk Sales shall comply with the following requirements:

i. The merchant shall possess a valid Town Business Permit.

ii. A minimum passage of four feet (4') shall be maintained for pedestrian traffic at all points.

iii. The Town Fire Chief must approve the display of any flammable material.

iv. All merchandise displayed on the private sidewalk shall consist of goods that are regularly stocked by the merchant.

v. The area shall not be used for storage.

vi. The area shall remain free of boxes, pallets packing material or other refuse.

2. Temporary Retail Sales Events shall comply with the requirements listed above for private sidewalk sales.

J. Accessory Businesses:

1. Accessory Businesses shall:

(a) Obtain a Town Business Permit pursuant to Chapter 9 of the Town Code.

(b) Obtain an Administrative Use Permit from the Zoning Administrator and comply with all requirements set forth in this Paragraph I.

(c) Obtain written permission of the owner of the principal business on the property and the property owner.

(d) Not operate in a public right-of-way.

(e) Be operated only on Friday, Saturday, and/or Sunday and only during the hours of operation of the primary business; provided however, that if the business is machine-operated and does not require a person to operate it, the Accessory Business may be operated twenty-four (24) hours a day, seven (7) days a week.

(f) Not interfere with or prevent compliance with other Town Code provisions, State and Federal requirements for access by persons with disabilities and shall not impede access to any adjacent use.

(g) Maintain the site of the Accessory Business in a clean and orderly manner free of refuse and debris.

(h) Not obstruct or interfere with the safe and normal flow of pedestrian and vehicular traffic.

(i) Not have more than one sign with a size greater than four (4) square feet.

(j) Notify the Building Department if a shade structure is used and pay the applicable inspection fee if the size of the shade structure is greater than ten feet by ten feet (10' x 10').

K. Medical Marijuana Facilities: Medical marijuana dispensaries, off-site cultivation sites, and designated caregiver cultivation locations shall be located, developed, and operated in compliance with the following standards: 👁 🕯

1. ***Applicability.*** The minimum requirements of this Section shall apply to all medical marijuana dispensary and medical marijuana cultivation site uses located in any zoning district.

2. ***General.*** A medical marijuana dispensary, medical marijuana offsite cultivation site, or medical marijuana designated caregiver cultivation location shall: 🕯

a. Be located in a permanent building and shall not be located in a temporary structure, trailer, cargo container, motor vehicle, or other similar non-permanent enclosure.

i. A medical marijuana dispensary shall not exceed 2,000 square feet of net floor area, including all storage areas, retail space, cultivation areas, and offices. ☆

👁 Ord. 1084/2-11
🕯 Ord. 1085/4-11
☆ Ord. 1088/6-11

ii. Cultivation conducted onsite at a medical marijuana dispensary shall not exceed a 250 square foot area and shall comply with all rules and regulations of the State of Arizona and its' agencies. ☆

b. Supply:

i. Proof that the dispensary is State-approved, certified and registered with the Arizona Department of Health Services pursuant to Arizona Revised Statutes, Title 36, Chapter 28.1; and

ii. A copy of the operating procedures adopted in compliance with A.R.S. § 36-2804(B)(1)(c); and

iii. A survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or off-site cultivation facility; and

iv. A security plan as provided below; and. 🕯

v. Written documentation signed by the property owner(s) that it is aware of the proposed use and that it has consented to the medical marijuana related use being conducted on the premises; and, ☆

vi. A copy of the documentation submitted to the Arizona Department of Health Services with its application for certification by the Department.☆

c. Comply with all registration and recordkeeping required by the Town, Maricopa County and Arizona law and shall maintain, at all times, a valid certification and registration with the Arizona Department of Health Services. Should the dispensary or designated caregiver lose its certification or authorization to operate or become uncertified by the Arizona Department of health Services, it shall immediately cease operations within the Town. If the dispensary or caregiver is reinstated by the Arizona Department of Health Services, before resuming operations in the Town, it shall resubmit the required information and fees to the Town Planning official.☆

d. Obtain, maintain and display a valid Town of Wickenburg Business registration or permit as may be required by the Town Code.

e. If cultivation at an off-site cultivation site is proposed, supply the name of the dispensary with which it is affiliated. If designated caregiver cultivation is proposed supply the names and residence locations of the qualifying patients for whom the medical marijuana will be cultivated and the location of the closest medical marijuana dispensary to the residence of each qualifying patient. 🕯

f. If medical marijuana is supplied to the dispensary by a qualified patient or caregiver, provide the name and contact information of the qualified patient or caregiver.

g. Not provide off-site deliveries of medical marijuana except a medical marijuana designated caregiver may deliver medical marijuana from a dispensary or designated caregiver cultivation location to the qualifying patient for whom he/she is the designated caregiver. ☆

h. Not sell merchandise other than medical marijuana except and only coincident with the purchase of medical marijuana, a medical marijuana dispensary may sell materials necessary for the consumption or use of medical marijuana to a qualifying patient or designated caregiver who purchase medical marijuana.☆

Ord. 1084/2-11
🕯Ord. 1085/4-11
☆Ord. 1088/6-11

i. Not have drive-through facilities or take-out windows.

j. Not emit dust, fumes, vapors or odors into the environment.

k. Prohibit consumption of medical marijuana on the premises.

l. Not permit or provide indoor or outdoor seating areas or facilities for the consumption of medical marijuana anywhere on the site.

m. Permit annual fire inspections pursuant to the Town of Wickenburg Fire Code.

n. Prior to Town approval of an application for a cultivation site, the applicant shall conduct a public meeting to receive public comment on the proposed site. The applicant shall provide notice at least ten (10) days prior to the meeting via U.S. mail to all owners of property located within a 1,000 foot radius of the proposed location. The notice shall contain the date, time and location of the meeting and a description of the proposed use. The applicant shall also post a notice of the meeting at the Town's posting places and at the proposed location at least ten (10) days prior to the meeting. ☆

o. Retail sales shall not be conducted at medical marijuana off-site cultivation sites. ☆

p. A medical marijuana dispensary shall prominently display at least two (2) signs stating "no loitering is allowed on or in these premises." At least one (1) of the signs shall be visible on the exterior of the dispensary. Each sign shall be no smaller than one (1) square foot in area. ☆

3. ***Location.*** Medical marijuana facilities shall be a minimum distance from the uses set forth in the table below. Measurements shall be made in a straight line in any direction from the closest perimeter business walls. ☆

USE OR USE CLASSIFICATION	*SEPARATION REQUIREMENT (FEET)**
Day care center, public or private	2,000 ◆
Schools, public or private	2,000 ◆
Any other medical marijuana dispensary	5,000 ◆
Rehabilitation and treatment centers	2,000 ◆
Residential units	250 ◆

4. ***Hours of Operation.*** A medical marijuana facility shall have operating hours not earlier than 8:00 a.m. and not later than 8:00 p.m.

5. ***Security Plan Requirements.*** A medical marijuana facility shall submit a security plan containing the following information:

a. Proof that any cultivation and storage of medical marijuana will take place in an enclosed, locked facility equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to state and local law.

Ord. 1084/2-11
Ord. 1085/4-11
☆ Ord. 1088/6-11
◆ Ord. 1094/10-11

b. A floor plan that details the security measures required by Arizona law including an on-site alarm system and a single secure entrance.

c. Additional protections, if any, against medical marijuana diversion and theft.

d. Provide and update as needed the names and contact information for all persons who are authorized as owners, agents, volunteers and employees, to access the dispensary, offsite cultivation site or designated caregiver cultivation location. ✋

e. At the request of the Town Police Department, a medical marijuana dispensary or cultivation facility shall, at the owner's sole expense, provide a twenty-four (24) hour surveillance video that feed to the Town of Wickenburg Police Department. ☆

6. ***Designated Caregiver Cultivation Locations.*** ✋ In addition to the above applicable requirements, designated caregiver cultivation locations shall be subject to the following regulations:

a. A designated caregiver may cultivate at his residence for a single qualifying patient subject to compliance with A.R.S. §36-2806.01.

b. Cultivation by a designated caregiver for more than one (1) but not more than five (5) qualifying patients shall be located in the C-3 Commercial District in compliance with this Code, regulations of the Arizona Department of Health Services and Arizona State Law.

c. More than one (1) designated caregiver may co-locate cultivation locations as long as the total cultivation area does not exceed two hundred fifty (250) square feet.

d. Designated caregivers shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services.

L. <u>Large Shopping Center Uses</u>: ⚑

1. Applicability. The following standards and guidelines are applicable to any retail structure in excess of sixty-five thousand (65,000) square feet.

2. Site Design.

a. Each large shopping center shall provide a roofed arcade or other design amenity, as approved by the Development Review Committee, extending along at least sixty percent (60%) of the length of the front of the building. Arcades shall be supported by columns and at least ten feet (10') wide as measured from the building face to the columns supporting the arcade. The balance of the frontage shall have pop-out features to mimic the arcade or other design amenity.

b. At least two (2) of the following design features shall be provided: pedestrian plaza with benches, window shopping walkway, windmill, water tower fountain or clock tower.

3. Landscaping.

a. <u>Peripheral</u>. A thirty (30) foot wide landscape buffer shall be provided along the front property line and along all abutting arterial roadways with breaks for approved access points. A minimum fifteen (15) foot wide landscape buffer shall be provided along all other property lines and along all internal roadways. No parking is permitted within these required landscape areas.

✋Ord. 1085/4-11
☆Ord. 1088/6-11
⚑Ord. 1106/5-12

b. Where the façade faces adjacent residential uses, a landscaped earthen berm and/or block wall at least six feet (6') in height, shall be provided.

c. Parking lot. A minimum of twenty percent (20%) of the parking area shall be landscaped. Landscaped areas shall be protected by raised curbs and shall be a minimum of one-hundred fifty (150) square feet in size, except that parking lot islands shall be a minimum of twelve feet (12') wide between parallel parking rows and shall run the length of the parking aisle walkways capped at each end by the termination of the island. No parking space shall be located more than one-hundred feet (100') from a landscaped area.

d. Landscape plans shall include public art that is reflective of the town's western heritage and shall be approved by the development review committee.

4. Pedestrian Circulation.

a. Perimeter public sidewalks at least six feet (6') wide shall be provided along all sides of the property abutting a public street.

b. A continuous internal sidewalk, not less than six feet (6') wide, shall be provided to connect the perimeter sidewalk or public right-of-way to the primary customer entrance(s) of every principal building on the site. At a minimum, walkways shall connect focal points of pedestrian activity including, but not limited to, street crossings, building and store entry points, and transit stops and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty percent (50%) of the length of the individual walkway.

c. Four (4) foot-wide pedestrian walkways shall be provided in the parking aisle medians.

d. Sidewalks, not less than eight feet (8') wide, measured from the face of the building, shall be provided along the full length of every building facade that has a customer entrance, and along any façade abutting a public parking area.

e. An outer court area shall be provided along at least fifty percent (50%) of the length of the front of the building. Each outer court shall start at the outside face of any column, planter or other amenity provided as part of the arcade or walkways, and shall extend a maximum of twenty feet (20') measured perpendicular to the building face. The outer court shall be equal in grade (flush) with the adjacent sidewalk and drive aisles. It shall also provide decorative materials to define the perimeter of the outer court and enhance the outer court itself. The outer court shall further incorporate bollards or other decorative elements and signage to prevent parking, loading and /or unloading at the main entry.

f. Internal sidewalks shall have weather protection features such as awnings or arcades within thirty feet (30') of all customer entrances.

g. All internal sidewalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as paver, brick or scored concrete to enhance pedestrian safety and attractiveness of the walkways.

h. The primary entrance(s) shall have raised crosswalks which connect to the parking area.

Ord. 1085/4-11
Ord. 1088/6-11
Ord. 1106/5-12

5. Parking Lot Orientation. Parking areas shall provide safe, convenient, and efficient access. Parking areas shall be distributed on the sides and front of the primary building in order to decrease walking distances from parking areas to the building to reduce the overall scale of the paved surface. No more than twenty-five percent (25%) of the off-street parking area for the entire property shall be located between the front façade of the principal building(s) and the primary abutting street.

Section 14-11-4 Yard, Height and Area Regulations

ZONING DISTRICTS	MAXIMUM BUILDING HEIGHT			MINIMUM YARD SETBACKS				MINIMUM LOT AREA	MINIMUM LOT WIDTH	LOT COVERAGE
COMMERCIAL	*STORIES*		*FEET*	*FRONT*	*REAR*	*INTERIOR SIDE*	*STREET SIDE*	*SQUARE FEET / ACRES*	*FEET*	*Max %*
C-1	2	OR	30	15'	20'	0 / 10'	15'	NONE	NONE	NONE
C-2	3	OR	40	0 / 25'	20'	0 / 10'	15'	NONE	NONE	NONE
C-3	2	OR	30	25'	20'	10'	15'	NONE	NONE	NONE

A. Front Yard Setback exceptions:
   1. C-2: No front yard setback required unless adjacent to a residential district in which case the minimum setback shall be the setback required by the residential district but may not exceed twenty-five feet (25').

B. Side Yard Setback exceptions:

   1. C-1: Minimum side yard setback when property is adjacent to a residential zone shall be five (5) feet.

   2. C-2: The side yard regulations are the same as those in the C-1 District – Neighborhood Commercial.

C. Rear Yard Setback exceptions:

   1. C-1: Minimum twenty-five foot (25') setback from property line when adjacent to a residential zone even when separated by an alley.

   2. C-2: The rear yard regulations are the same as those in the C-1 District – Neighborhood Commercial.

   3. C-3: The rear yard regulations are the same as those in the C-1 District – Neighborhood Commercial.

Section 14-11-5 Parking and Loading Requirements

All parking and loading requirements for commercial uses are outlined in Section 14-17-2.

Section 14-11-6 Landscaping Requirements

All landscaping requirements for commercial developments are outlined in Section 14-19-5.

Ord. 1085/4-11
Ord. 1088/6-11
Ord. 1106/5-12

ARTICLE 14-12 RESORT AND RECREATION DISTRICT

14-12-1 Purpose
14-12-2 Permitted Uses Matrix and Accessory Uses
14-12-3 Height, Yard, Area Matrix
14-12-4 Development Review Guidelines

Section 14-12-1 Purpose

The Resort and Recreation District is established to provide for the development and operation of temporary lodging, recreation opportunities and associated specialized commercial guest facilities while protecting adjacent land uses from inappropriate and adverse impacts. The intent is to provide for the designation and regulations of certain land uses that are primarily intended for visitors to the Town. The Resort and Recreation District may be applied to property that is best suited to accommodating the needs of the visiting public without inappropriate impact upon the daily functioning of the community or inappropriate impacts upon surrounding properties.

Section 14-12-2 Permitted Uses Matrix and Accessory Uses

The following matrix sets forth Permitted and Conditionally Permitted Uses in the Resort and Recreation District:

USES	ZONING DISTRICT
	RR
Bed and Breakfast	X
Convention Center	C
Go-Cart Tracks	C
Golf Courses	X
Guest Ranches	X
Helistops	C
Horse Boarding	X
Hot Air Launch Pads	C
Hotels	X
Inn's	X
Motels	X
Open Air Pavilions	C
Petting Zoos	C
Religious Assemblies	X
Residential	C
Residential Facilities for nonpermanent occupancy	X
Resorts	X
Shooting Range	C
Skate Board Parks	C
Timeshare Projects	X

1. Accessory Uses: The following are Accessory Uses and may be established only when part of, or accessory to a Permitted Use:

a. Entertainment, cultural and recreation facilities including lawn bowling, exercise facilities, handball and racquetball facilities, tennis, swimming and spa facilities, volleyball courts, dinner theaters, museums, art galleries, nature walk trails and amusement game rooms.
b. Service and specialty uses including beauty and barbershops, health spas, gift shops, newsstands, and specialty food shops (including on-site preparation and service).
c. Restaurants, dining facilities, bars, cocktail lounges and specialty food shops (deli's) with or without alcohol (including on-site preparation and service), excluding drive-through facilities.
d. Conference and gathering facilities including meeting rooms and chapels, with or without provisions for catering into the facilities designed to serve two hundred (200) people or less in a single room.
e. Business offices for the Resort.
f. Freestanding open air pavilions less than one thousand (1,000) square feet, for outdoor events.
g. Riding and hiking trails.
h. Equestrian facilities and horse stables, excluding boarding of horses for commercial purposes.
i. Observatories.
j. Living quarters for persons employed and deriving a major portion of their income on the premises, if occupied by such persons and their immediate families.
k. Live entertainment for the enhancement of the guest's visit to the temporary lodging facilities, excluding sexually oriented performances.
l. Support facilities such as outdoor cooking areas, pool house, shade structures (ramada's and gazebo's) laundry facilities (for guests only), and other like uses as permitted by the Zoning Administrator.
m. Campgrounds that may consist of temporary or permanent buildings, tent areas, or other structures (bunk houses, mess halls, etc.).
n. Motion picture studios and sets including the temporary use of domestic and wild animals in motion picture and television production, provided that said animals are kept and maintained pursuant to all applicable regulations, and are not retained on the premises for a period exceeding sixty (60) days.

Section 14-12-3 Height, Yard, Area Matrix

ZONING DISTRICT	MAXIMUM BUILDING HEIGHT			MINIMUM YARD SETBACKS				MINIMUM LOT AREA
	STORIES		*FEET*	*FRONT*	*REAR*	*INTERIOR SIDE*	*STREET SIDE*	*ACRES*
RR	3	OR	40	40	25	20	25	10

1. Building Separation
   a. Distance between two (2) main buildings shall be a minimum of twenty-five (25) feet.
   b. Distance between main building and accessory building/facility – fifteen (15) feet.
   c. Distance between accessory and accessory – ten (10) feet.
2. Building Height
   a. In conjunction with a Conditional Use Permit application, the Council may allow an increase to the building height up to an additional twenty five percent (25%) of the allowable, provided that the applicant provides acceptable justification for the need to exceed the height limit.

Section 14-12-4 Development Review Guidelines

All development in the Resort Zoning District shall comply with Article 14-25 of this Code.

ARTICLE 14-13 MULTI-USE DEVELOPMENT DISTRICT (MUDD)

14-13-1 Purpose
14-13-2 Permitted Uses
14-13-3 Yard, Height, and Area Regulations
14-13-4 Design Guidelines

Section 14-13-1 Purpose

Multi-Use District: The purpose of this district is to allow for incremental development of residential to commercial property. The Zoning Administrator may determine whether a proposed use meets the intent of the Zoning District if such a use is not specifically listed. Some of the aspects of the District include:

A. High-quality office, storefront retail, restaurant and entertainment to integrate with various residential components in order to create an urban center where people live, work, and entertain.

B. Developments that create a compacted pedestrian environment and promote pedestrian activities that would balance day and night uses.

C. Innovative integration of compatible uses through the conversion of existing buildings and the development of new buildings in a manner that fosters sensitive and sustainable site design and architectural style.

Section 14-13-2 Permitted Uses

USES	ZONING DISTRICT
	MUDD
Accessory Buildings	X
Antique Stores	X
Art Galleries	X
Banks	X
Business Schools, Colleges, universities, Nursery Schools, including Art/Dancing/Vocal/Instrumental Schools, Riding Academies, Trade/Vocational	X
Candy Stores	X
Craft Shops which include ceramics, mosaics, fabrics, jewelry, leather goods, silk screening, photography, dress designing, sculpturing and wood carving, clock shops	X
Delicatessen Stores	X
Dress or Clothing Shops	X
Florist Shops	X
Grocery Stores and meat markets, provided there is no slaughtering of animals or poultry on the premises	X
Health Clubs, Gymnasiums and similar facilities	X
Lofts	X
Medical and Dental Offices and Clinics	X
Offices	X
Outdoor Sales	X
Photographers' and Artists' studios	X
Residential Office	X
Restaurants and Cafes, but not including those having dancing or floor shows, or drive-in car service	X
Retail Stores for sale of new merchandise	X

Service establishments combining retail outlet and showroom with workshops for saddlery and harness, interior decorating, custom dressmaking, custom tailoring, electrical appliance sales and service, millinery, plumbing supplies and parts, printing, rubber stamps, data processing service, and household appliance repair	x
Shoe Repair Shops	x
Tailor Shops	x

Section 14-13-3 **Height, Yard and Area Regulations**

A. Residential Multi-Use: Multi-Use Developments that are predominately residential shall maintain a residential character and the following Residential Development Standards shall apply:

DEVELOPMENT STANDARDS	SINGLE-FAMILY RESIDENCE AS THE PRIMARY USE	MULTI-FAMILY RESIDENCE AS THE PRIMARY USE
SETBACKS (FEET)*		
Front	0/20	0/20
Rear	25	25
Side	0/10	0/10
Maximum Density (Du/Ac)	4 TO 8	8 TO 12
Maximum Building Height (Feet)	30	30

**Where setbacks are listed with 0 see "D" below.*

B. Commercial Multi-Use: Multi-Use Developments that are predominately non-residential shall maintain a non-residential character and the following Non-Residential Development Standards shall apply:

DEVELOPMENT STANDARDS	CMU
SETBACKS (FEET)*	
Front Minimum	0/15
Rear	25
Exterior Side	0/15
Interior Side	0/5
Maximum Building Height	30/40
Landscape Buffer Abutting Residential Zones	10
Maximum Lot Coverage	50%

**Where setbacks are listed with 0 see "D" below.*

C. While a development may be predominately residential or commercial in nature, Mixed Use Developments may combine both residential and commercial uses in ways that will provide live, work, play living conditions.

D. Zero Setback: Zero (0) setbacks are permitted along the front, interior and exterior side property lines when either adjacent structures also have zero setbacks or when part of a Planned Area Development (PAD).

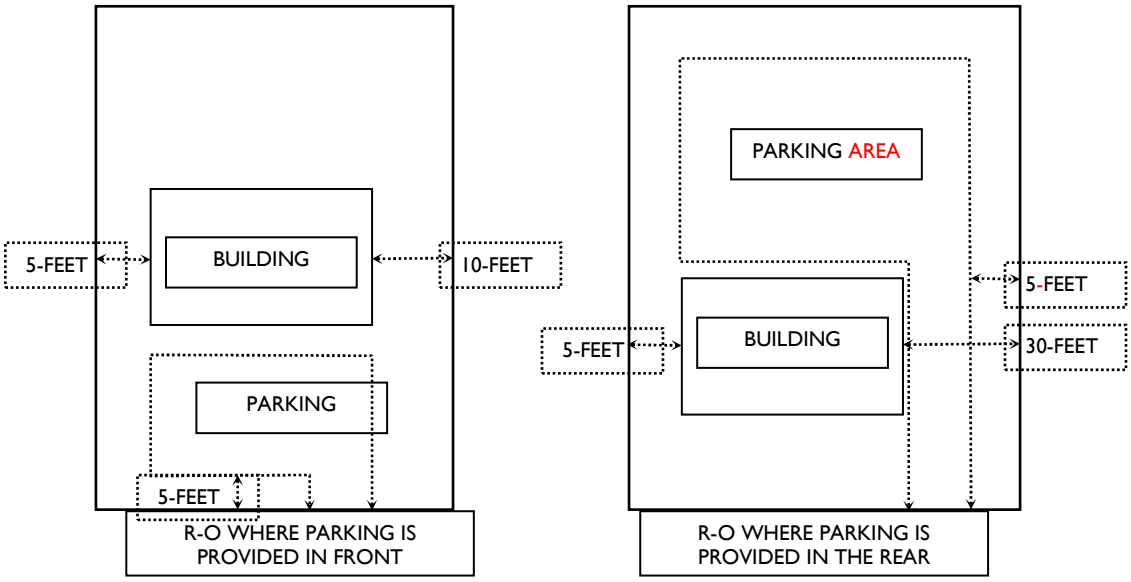
E. If property along a collector or arterial street is zoned commercial or is adjacent to a commercial zone and was previously used as a residential dwelling, the home may be converted from a dwelling to an office with the following requirements:

1. The building must maintain its residential appearance and appear as a dwelling from the exterior.

2. Signage is limited to a single non-illuminated monument sign a maximum of twelve (12) square feet.

3. Additional landscaping and screening may be required as determined by the Zoning Administrator.

4. The following drawings for Parking shall be complied with:



Section 14-13-4 **<u>Design Guidelines</u>**

A. The percent of residential and non-residential uses shall determine which table of Development Standards shall be used. For example, if the floor area of a Mixed Use Development is fifty one percent (51%) commercial and forty-nine percent (49%) residential, then the Development shall be considered a Commercial Mixed Use Development.

B. Parking Standards: Parking calculations shall be made using the table in Article 14-17 using the individual uses proposed within the development. A reduction in required parking spaces may be granted with Council approval if all of the following criteria are met:

1. Pedestrian Circulation System is provided through a network of sidewalks.

2. Modern techniques for screening and increasing parking lot densities are used (for example, underground parking and parking garages).

3. The area that would have been used for parking is provided as open space with landscaping (i.e. trees and shrubs).

4. The remaining parking is adequate for the proposed use(s).

C. Landscape Standards: All Mixed Use Developments shall comply with the Landscape Standards within Section 14-19.

D. All Multi-Use Developments shall comply with the Design Standards set forth in Article 14-25 and Application Review Standards for a Planned Area Development (PAD) as set forth in Section 14-22-1.

ARTICLE 14-14 INDUSTRIAL DISTRICTS

14-14-1 Purpose
14-14-2 Permitted Uses Matrix
14-14-3 Conditional Uses
14-14-4 Height, Yard and Area Regulations
14-14-5 Parking and Loading Regulations
14-14-6 Landscaping Requirements
14-14-7 Additional Regulations

Section 14-14-1 Purpose

IND-1 – Planned Industrial: The purpose of this zoning district is to provide sufficient space in appropriate locations for certain types of business and manufacturing free from offense in modern landscaped buildings, to make available more attractive locations for these businesses and factories and to provide opportunities for employment closer to residence with corresponding reduction of travel time from home to work.

IND-2 – Light Industrial: The purpose of this zoning district is to provide for light industrial uses in locations which are suitable and appropriate taking into consideration the land uses on adjacent or nearby properties, access to a major street or highway, rail service or other means of transportation, and the availability of public utilities. Principal uses permitted in this zoning district include the manufacture, compounding, processing, packaging or treatment of materials which do not cause or produce objectionable effects that would impose hazard to adjacent or other properties by reason of smoke, soot, dust, radiation, odor, noises, vibrations, heat, glare, toxic fumes, or other conditions that would affect adversely the public health, safety and general welfare.

IND-3 – Heavy Industrial: The purpose of this zoning district is to provide for heavy industrial uses in locations which are suitable and appropriate taking into consideration land uses on adjacent or nearby properties, access to a major street or highway, rail service or other means of transportation and the availability of public utilities. Principal uses permitted in this zoning district include the industrial uses that are not permitted in any other zoning district.

The Zoning Administrator may determine whether a proposed use meets the intent of the Zoning District if such a use is not specifically listed.

Section 14-14-2 Permitted Uses Matrix

USES	ZONING DISTRICTS		
	I-1	**I-2**	**I-3**
Acid manufacture	-	-	X
Ammonia manufacture	-	-	X
Any Use Permitted in the C-3 District – Major Street Commercial, subject to all the use regulations for the C-3 Zoning District except residential uses and except medical marijuana dispensary ☆ Ord. 1088/6-11	-	X	-
Any other office, laboratory and manufacturing uses similar to those uses enumerated herein which do not create any danger to the public health, safety and general welfare in surrounding areas and which do not create any offensive noise, vibration, smoke, dust, odor, heat or glare and which, by reason of high value in relation to size and weight of merchandise received and shipped, create very little truck traffic.	X	-	-
Art needlework, hand weaving and tapestries	X	-	-
Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, and crystal holders.		X	
Automobile graveyards	-	-	X
Blast furnaces and coke ovens	-	-	X
Books, hand binding and tooling	X	-	-

Celluloid and plastics manufacture	-	-	X
Chemicals, manufacture and storage	-	-	X
Cement, lime, gypsum or plaster of paris manufacture	-	-	X
Compounding of cosmetic and pharmaceutical products	X	-	-
Construction equipment, limited to sales, service and rental.	-	X	-
Distillation of bones	-	-	X
Drop forge industries	-	-	X
Explosives, manufacture or storage	-	-	X
Fat, grease, lard, or tallow, rendering of	-	-	X
Feed lots, commercial	-	-	X
Fertilizer manufacture	-	-	X
Garbage, offal, or dead animals reduction or dumping	-	-	X
Gas manufacture	-	-	X
Glue, soap, candle or tallow, manufacture or storage	-	-	X
Impound lot	-	-	X
Iron and steel rolling or manufacture	-	-	X
Jewelry, manufacture from precious metals and minerals	X	-	-
Junkyards	-	-	X
Laboratories, research, experimental and testing	X		
Laboratories, experimental, photo or motion pictures, research or testing.	-	X	-
Laundry and dry cleaning plants, wholesale or retail.	-	X	-
Manufacture of clay, leather, metal and glass products of a handicraft nature	X	-	-
Manufacture, compounding, processing, packaging or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, but not including the refining and rendering of fats and oils.	-	X	-
Manufacture, compounding, assembling or treatment of articles or merchandise, from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, light sheet metal, shell, textiles, tobacco, wire, yarns, wood not involving planning mills, and paint not employing a boiling process.	-	X	-
Manufacture of electrical or electronic apparatus, musical instruments, games and toys	X	-	-
Manufacture of medical, dental and drafting instruments	X	-	-
Manufacture of optical goods and equipment, watches, clocks and other similar precision instruments	X	-	-
Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay.	-	X	-
Match factories		-	X
Medical Marijuana designated caregiver cultivation site ☆Ord. 1088/6-11		X	
Medical Marijuana Cultivation Facility 👁Ord. 1084/2-11		X	
Motion picture producing	X	-	-
Offices	X	-	-
Petroleum or its products, refining of	-	-	X
Radio and television broadcasting stations and studios, but not including transmitter towers and stations	X	-	-
Rock crushers, crushing and screening plants, batch plants	-	-	X
Rubber, reclaiming or the manufacture of synthetic rubber or its constituents	-	-	X
Smelting of tin, copper, zinc or iron ores	-	-	X
Stock foods made of kelp, fish or fishmeal, manufacture or storage	-	-	X

Stockyards or slaughter of animals	-	-	X
Tanneries or the curing or storage of rawhides	-	-	X
Warehouses and storage contractors offices, lumberyards, building materials, repair shops and storage yards, including outdoor storage of equipment, provided that such storage yards shall be screened from view from any street or residential zoning district by a solid wall or fence not less than six (6) feet in height above grade, but not including the warehousing and storage of explosive material and junk.	-	X	-
Wholesale storage of gasoline	-	-	X
Wool pulling or scouring	-	-	X

Section 14-14-3 **Conditional Uses**

A. The uses permitted with a Conditional Use Permit as set forth in Section 14-11-3 shall also be permitted within each Industrial District subject to Council approval in accordance with the requirements of Section 14-24-4.

Section 14-14-4 **Height, Yard and Area Regulations**

ZONING DISTRICTS	MAXIMUM BUILDING HEIGHT			MINIMUM YARD SETBACKS				MINIMUM LOT AREA	MINIMUM LOT WIDTH
INDUSTRIAL	*STORIES*		*FEET*	*FRONT*	*REAR*	*INTERIOR SIDE*	*STREET SIDE*	*SQUARE FEET / ACRES*	*FEET*
IND-1	3	OR	40	50*	50	25 50*	25	35,000 SQ. FT.	150
IND-2	3	OR	40	20 + 1*	10 25*	20 + 1*	10	10,000 SQ. FT.	80
IND-3	3	OR	40	25*	20 35*	25*	10	NONE	NONE

**see exceptions below*

A. Front Yard Exceptions:
   1. IND-1: For through lots, a front yard shall be provided along both front lot lines

   2. IND-2:
      a. Minimum front yard setback is twenty feet (20') plus one foot (1') per additional foot of building height over twenty feet (20').
      b. Where the frontage between two (2) intersecting streets is located partly in the IND-2 Zoning District and partly in a commercial or residential zone, the minimum building setback line shall, under no circumstances, be less than the minimum required front yard for the respective commercial or residential zone.

   3. IND-3: Where the frontage between two (2) intersecting streets is located partly in the IND-3 Zoning District and partly in a residential or commercial zoning district, there shall be a front yard equal to the front yard required in the adjoining residential or commercial zoning district but such yard need not exceed twenty five (25) feet in depth.

B. Side Yard Exceptions:

   1. IND-1: There shall be a side yard on each side of a building having a minimum width of not less than twenty five (25) feet, except when the side yard is adjacent to a residential zoning district the setback shall be thirty feet (30').
   2. IND-2: Minimum setback shall be thirty feet (30') when adjacent to a residential zone.

3. IND-3: Where a corner lot abuts a residential zoning district whether or not separated by an alley, there shall be a side yard on the street side of such corner lot having a width of not less than ten (10) feet. If a side yard is otherwise provided it shall have a width of not less than ten (10) feet

D. Rear Yard Exceptions:

1. IND-2: If the rear yard abuts a residential zoning district, the minimum distance shall be increased to twenty-five (25) feet.

2. IND-3: Where a lot abuts a residential zoning district whether or not separated by an alley, there shall be a rear yard having a depth of not less than thirty five (35) feet.

Section 14-14-5 Parking and Loading Regulations

The Parking Regulations are as provided in Article 14-17.

Section 14-14-6 Landscaping Requirements

The Landscaping Requirements are set forth in Section 14-19-5.

Section 14-14-7 Additional Regulations

A. IND-1:

1. All uses except for parking, loading and unloading shall be conducted within a completely enclosed building.

2. Any lighting shall be placed so as to reflect the light away from adjoining residential zoning districts.

3. Required yard adjacent to any street shall not be occupied by any use or structures except for drives and roadways, signs, and lighting as permitted in this Ordinance.

B. IND-2: Ord. 1084/2/11

1. Any use, including incidental or accessory storage, not within a completely enclosed building shall be screened from adjoining residential zoning districts by a solid fence or wall at least six (6) feet in height provided that no goods, materials or objects shall be stacked higher than the fence or wall so erected.

2. Any lighting shall be placed so as to reflect the light away from adjoining residential zoning districts.

3. All medical marijuana facilities located in the IND-2 Zoning District shall comply with the requirements set forth in Section 14-11-3(K) of this Code.

C. IND-3:

1. A building or premises other than the residence of the family of the operator or caretaker employed on the premises of a commercial or industrial use, shall not be used for dwelling, mobile home parks, travel trailer parks, mobile home subdivisions, hotels, resort hotels and motels.

2. Any use, including incidental or accessory storage, not within a completely enclosed building shall be screened from lots in adjoining residential zoning district by a solid fence or wall at least six (6) feet in height.

3. Any lighting shall be placed so as to reflect the light away from adjoining residential zoning districts.

4. Signs are as provided in Section 14-18-13 hereof.

Ord. 1084/2/11

ARTICLE 14-15 **Reserved For Future Use**

ARTICLE 14-16 WHPOZ – WELL HEAD PROTECTION OVERLAY ZONE

14-16-1 Purpose
14-16-2 General Provisions
14-16-3 Designated Well Head Protection Overlay Zoning Districts
14-16-4 Permitted Uses
14-16-5 Uses Permitted As A Conditional Use
14-16-6 Non-Conforming Uses
14-16-7 Prohibited Uses In Well Head Protection Areas

Section 14-16-1 Purpose

The purpose of the Well Head Protection Overlay Zone (WHPOZ) is to designate areas in which a Municipal Well Head is located and to delineate the area around each of the Municipal Well Heads, which requires protection from contamination. It is recognized that Regulations on development are necessary to protect these well heads. The designation of a Well Head Protection Overlay Zoning District will regulate the uses which are allowed in the District in order to minimize potential contamination of the Town's groundwater supply by limiting the allowed uses to those which do not involve the use of septic tanks, volatile or corrosive liquids, chemicals or other agents which, if spilled, leaked or dumped, onto or into the ground, have been found to pose a threat of groundwater contamination which could be a hazard to humans and/or animals.

Section 14-16-2 General Provisions

A. The Well Head Protection Overlay Zoning District is an overlay zone and may be combined with any other zoning district. The provisions of the underlying district shall govern the development of any lot or parcel subject to the regulations set forth in this Article.

B. All portions of a lot or parcel located within the Well Head Protection Overlay Zoning District as designated on the Zoning Map shall be subject to the regulations set forth in this Article.

Section 14-16-3 Designated Well Head Protection Overlay Zoning Districts

The following areas are designated as the initial Well Head Protection Areas of the Town and are rezoned to Well Head Protection Overlay Zone (WHPOZ) and the Zoning Map of the Town is amended to reflect such rezone:

A. Well Head Protection Zone- Number 1- Sols Wash, Barnett and Remuda Wells
Beginning at the centerline of the Hassayampa River at the point where it intersects a line connecting the southwest corner of Section 1 Township 7 North, Range 5 West of the Gila and Salt River Baseline and Meridian and the northwest corner of the southwest quarter of the southwest quarter of Section 6 Township 7 North, Range 4 West of the Gila and Salt River Baseline and Meridian. From the point of beginning following the centerline of the Hassayampa River in a northerly or upriver direction for the distance of seven and one-half miles and extending one-half mile to either side of said centerline to form the perimeter line of the Well Head Protection Zone. The jurisdiction of the Town over the Well Head Protection Zone terminates at the point the perimeter line intersects the Town Limits as they exist today or in the future.

Well Head Protection Zone- Number 2- Mariposa Well
Beginning at the vertical centerline of the Mariposa Well casing as situated in the northwest quarter of the northwest quarter of the southwest quarter of the northwest quarter of the northeast quarter of Section 11, Township 7 North, Range 5 West of the Gila and Salt River Baseline and Meridian and having a radius to the perimeter line of the Well Head Protection Zone of 1600' which extends 360 degrees outward from the vertical centerline of said well to construct a circle which forms the perimeter of the Well Head Protection Zone.

Well Head Protection Zone – Number 3 – Vulture Mine Well
Beginning at the vertical centerline of the Vulture Mine Well casing as situated in the southwest quarter of the northwest quarter of the northwest quarter of the southwest quarter of the northwest quarter of Section 3, Township 7 North, Range 5 West of the Gila and Salt River Baseline and Meridian and having a radius to the perimeter line of the Well Head Protection Zone of 1,750' which extends 360 degrees outward from the vertical centerline of said well to construct a circle which forms the perimeter line of the Well Head Protection Zone.

B. Additional Well Head Protection Areas may be designated by the Town Council pursuant to the procedures set forth in Article 14-24 of this Town Code and upon findings by the Council that contaminants are reasonably likely to move toward and reach the surface and subsurface area surrounding a water well or well field supplying the Town's Public Water System.

Section 14-16-4 Permitted Uses

The following land uses or activities will be permitted in Well Head Protection Overlay Zones when such uses or activities are connected to, and utilize exclusively, the municipal water and sewer systems

A. Residential Uses.

B. General Office Uses, Medical Offices and Hospitals when waste is disposed of in an approved manner.

C. Permanent Parks and/or open space if dedicated to passive or active recreational activities when it is found by the Zoning Administrator that none of the activities to be conducted therein will pose a potential treat of contamination to the Town's groundwater supply.

D. Churches, upon securing the required Conditional Use Permit.

E. Septic Systems in accordance with Section 13-3-2, Section 14-16-6.E. and Section 14-16-7.A.

Section 14-16-5 Uses Permitted as a Conditional Use

Uses, which have not been specifically permitted in Section 14-16-4, may be permitted with a Conditional Use Permit if the following findings are made by the Council:

A. That locating the proposed use within the WHPOZ will not negatively impact the Well Head, well, or water.

B. That locating the proposed use within the WHPOZ shall not be detrimental to surrounding neighborhoods.

C. That the proposed use shall provide all necessary screening and landscaping to help minimize or mitigate any potential negatives that could arise from the development or use.

Section 14-16-6 Non-Conforming Uses

Any use that exists on the date of passage of this Ordinance shall be considered Legal Non-Conforming. The Town shall make a concerted effort to eliminate legal non-conforming uses and to that end, the following steps shall be implemented:

A. Identify all Legal Non-Conforming Uses within the Town.

B. Prioritize the Legal Non-Conforming Uses for management, mitigation or elimination. The basis for prioritization shall be the potential threat that is posed by the use as determined by reference to Figure 1 in the Well Head Protection Plan and Program.

C. If potential threats of contamination cannot be managed or mitigated, the Town Council may find that the use should be eliminated in accordance with appropriate statutory authority granted to the Town by the State of Arizona.

D. Failure to notify the Town of deteriorated or worsened conditions shall constitute a Class 1 Misdemeanor subject to the penalty provisions of Article 1-8 of the Town Code.

E. NOTE: Septic Systems are not allowed in the adopted Well Head Protection Areas.

Section 14-16-7 Prohibited Uses In Well Head Protection Areas

A. The use of septic systems in subdivisions, leachates, petroleum products, corrosives and caustics in any manufacturing or recovery process is expressly prohibited.

B. The accumulation, dumping or disposal of any waste products.

C. Underground storage tanks for gasoline, diesel fuel, fuel oil, or other petrochemical products.

D. Feed Lots and Boarding Facilities are subject to a Use Permit supported by a Hydrologist's Study paid for by the applicant; and the Hydrologist's recommendations were followed along with a Manure Maintenance Plan; and the Hydrologist shall be selected by Town staff or any other such use related to the standing or grazing of cattle, horses or other livestock.

In order to approve uses, which are not otherwise permitted, the following findings must be found:

A. That the proposed use is consistent with the General Plan.

B. That the proposed use poses no inherent threat of groundwater contamination or any such inherent threat has been sufficiently mitigated by operational safety measures. All such operational safety measures shall be supported by a sealed and signed finding by the appropriate registered professional that the proposed use incorporates adequate measures to ensure that groundwater contamination will not occur as a result of the establishment of the use or activity. Under no circumstances shall an architect be deemed the appropriate registered professional.

C. In order to be issued a Conditional Use Permit, an application which includes a Site Plan and complete Operations Plan must be submitted to the Town along with the documentation supporting the registered professional's finding that the proposed use will not pose a threat to the Town's groundwater supply.

D. That Town will only consider applications for uses that employ or store petroleum products, caustics, or corrosives when the Commission makes a finding that adequate measures as certified by a registered professional and confirmed by the Town Engineer have been provided to minimize any potential threat of groundwater contamination.

E. Any person aggrieved by a decision of the Commission may, within fifteen (15) days, appeal said decision to the Town Council.

ARTICLE 14-17 OFF-STREET PARKING AND LOADING REGULATIONS

14-17-1 Purpose
14-17-2 Off-Street Parking Regulations
14-17-3 Parking Lot Location and Placement Requirements
14-17-4 Loading and Unloading Regulations

Section 14-17-1 Purpose

The purpose of this Section is to provide parking requirements for the uses which may locate within all developments.

Section 14-17-2 Off-Street Parking Regulations

A. All new development and single or aggregate additions to existing structures which increase the total floor area of the structure by more than twenty-five (25) percent and located in any zoning district shall provide on-site parking using the ratios provided below:

PARKING REQUIREMENT MATRIX		
LAND USE	**REQUIRED VEHICLE PARKING**	**REQUIRED ADDITIONAL PARKING STANDARDS**
Residential Uses		
Boarding and Lodging Houses	1 Space per D/U and/or Guest Room	
Bed and Breakfast	1 Space per Guest Room	
Convalescent / Nursing Home	1 Space per 5 Beds	
Community Center	1 Space per 500 Sq. Ft.	
Group Home	1 Space per 3 Beds	1 Additional Space per Full Time Staff Member On Duty
Mobile Home Park	1 Space per Trailer / Mobile Home Space	
Mobile Home Subdivision	2 Spaces per Lot	
Multifamily	1.5 Spaces per D/U	1 Additional Parking Space per 5 D/U For Visitor Parking
Recreational Vehicle Park	1 Space per RV Pad	1 Additional Parking Space per 5 Recreational Vehicle Spaces shall be Provided for Guest and Accessory Vehicle Parking.
Single Family	2 Spaces per D/U	
Travel Trailer Park	1 Space per Trailer / Mobile Home Space	
Two Family Dwelling	2 Spaces per each two family dwelling	
Assembly		
Religious Assemblies	1 Space per 5 Seats Provided in Main Auditorium/Sanctuary	
Funeral Homes	1 Space per 500 Sq.Ft. of Floor Area	
Private Clubs / Lodges	1 Space per 500 Sq.Ft. Of Floor Area	
Schools, Colleges, Universities, Other Institutions of Learning	1 Space per 3 Employees	Plus 1 Space per 10 Students
Theatres	1 Space per 5 Seats	
Commercial		
Clinics	1 Space per 300 Sq.Ft of Floor Area	
Commercial Buildings	1 Space per 300 Sq.Ft of Floor Area	
Hospital	1 Parking Space per 3 Beds	Plus 1 Additional Space per 3 Employees and 1 Space per Doctor Assigned to Staff
Hotels / Motels	1 Space per Guest Room	Plus 1 Additional Space per 3 Employees
Institutions of Religious, Charitable or	1 Space per 5 Beds	Plus 1additional space per 3 Employees

Philanthropic Nature		
Office	1 Space per 300 Sq.Ft of Floor Area	
PSC Shopping Center	3 Spaces per 1000 Square Feet of Floor Area	
Industrial		
Industrial	1 Space per 3 Employees plus 1 Space per 500 Sq.Ft of Floor Area When Total Number of Employees Cannot be Calculated	Service Vehicles or Company Vehicles must be Provided Parking on the Premises

1. **Fractional Measurements Involving Parking Spaces**: Unless otherwise provided for in the specific Parking Regulations, one (1) additional parking space shall be required if the number of required parking spaces results in a fractional number of more than one-half (1/2).

Section 14-17-3 Parking Lot Location and Placement Requirements

A. The required parking spaces shall be located on the same premises as the use they are intended to serve. A variance may be requested and reviewed by the Board of Adjustment if the required parking spaces are proposed to be located within four hundred (400) feet of the premises they are intended to serve. The Variance will be subject to the review criteria provided in Section 14-2-8.

B. Two (2) or more buildings or uses may provide joint parking spaces if the total of the required number of spaces is not less than the sum of spaces required for each individual building or use computed separately. If joint parking is requested, the owners of the respective properties shall create and record joint access and cross access easements in perpetuity or until one (1) or both uses change such that the parking provided on each property is sufficient for the properties individually. A copy of the recorded easements shall be provided to the Town and shall be kept on file. Documentation that demonstrates compliance shall be required if the owners request dissolution of the easements.

C. Parking Lot Setbacks: All parking lot setbacks shall be as set forth in Section 14-19.

D. Front Yards in Residential Districts: No more than fifty percent (50%) of the front yard of any single family dwelling unit or group home for the handicapped located in a single family residential district may be used for parking spaces.

E. Access to Parking from an Alley: Any parking lot may use an abutting alley for direct access to parking spaces; provided that adjacent property is not residentially zoned and the full width of the alley is dedicated to the public and fully improved with a hard, all-weather, dust-free surface, properly drained to prevent retention of surface water. A landscape buffer of ten feet (10') shall be required as outlined in Article 14-19 for non-residential property.

F. Access to Parking from a Street: Access to a parking lot from a street shall be limited to driveways, and there shall be no direct access to any off-street parking space from the street.

G. Ingress and Egress: No entrance or exit to a parking lot shall be located closer to an abutting residential district than fifteen (15) feet.

H. Parking Design Specifications: All required parking areas including spaces and attendant back-up maneuvering area, shall be designed and constructed in accordance with the following:

1. Width: All parking spaces shall be nine feet (9') in width measured perpendicular to the side parking space stripes, and nineteen feet (19') in length measured perpendicular to the front parking space stripe.

2. Surface: All commercial parking spaces, attendant back-up/maneuvering areas and driveways shall have a dust free and permanent surface consisting of a minimum of two inches (2") of asphaltic concrete pavement over four inches (4") of aggregate base.

3. Striping: All parking lots shall be striped and maintained in a legible manner. The Parking Lot Design Layout shall be in accordance with the following chart:

PARKING SPACE ANGLE (DEGREE)	AISLE WIDTH	
	ONE-WAY	TWO-WAY
90°	24’	24’
60°	18’	20’
45°	13’	20’
30°	12’	20’
0°	12’	20’

4. All parking areas, which are co-terminus with landscape areas, shall be bordered with a six-inch (6") continuous curb or an approved alternative, which, in no case, shall include bumper blocks.

5. All parking areas shall terminate at a distance no less than three feet (3') from the exterior wall of any building or structure. The intervening area shall be appropriately landscaped, if not used as an elevated sidewalk. If used with other than parallel parking, the sidewalk shall have a minimum width of five feet (5'). If the intervening area is landscaped, the depth of the parking space may be reduced to seventeen and one-half feet (17½’) for ninety-degree (90°) parking.

6. Continuous curbing shall be utilized to protect screening walls and refuse enclosures from vehicular contact.

7. All parking areas shall be screened from street view as described below in Section 14-19-9.B of this Article.

I. Driveways: No driveway shall exceed thirty feet (30') in width at property line and there shall be a minimum of thirty feet (30') between driveways. When approved by the Arizona Department of Transportation (if driveway abuts ADOT right-of-way), the Zoning Administrator or Commission, driveway width and separation may be adjusted on a case-by-case basis to insure adequate and safe ingress and egress.

Section 14-17-4 Loading and Unloading Regulations

A. Loading and Unloading requirements for commercial and industrial uses are as follows:

1. Loading and Unloading for Commercial Buildings: For all commercial buildings hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) loading and unloading space for each twenty-five thousand (25,000) square feet of floor area, or fraction thereof, devoted to such use in the building

2. Loading and Unloading for Wholesale, Manufacturing, and Industrial Buildings: For all wholesale, manufacturing the industrial buildings hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) loading and unloading space for each ten thousand (10,000) square feet of floor area, or fraction thereof, devoted to such use in the building.

3. Location of Required Loading and Unloading Spaces: The required loading and unloading spaces shall in all cases be on the same lot as the use they are intended to serve. In no case shall required loading and unloading spaces be part of the area used to satisfy the parking requirement.

4. Collective Action Relative to Loading and Unloading: This Ordinance shall not be construed to prevent the joint use of loading and unloading spaces for two (2) or more buildings or uses if the total of such spaces when used together is not less than the sum of the spaces required for the various individual buildings or uses computed separately.

5. Mixed Uses: In the case of mixed uses, the required loading and unloading spaces shall be the sum of the required loading and unloading spaces for the various uses computed separately and such spaces for one (1) use shall not be considered as providing required loading and unloading for any other use.

6. Location of Loading Space: Required off-street loading space may occupy all or any part of a required rear yard, except as provided elsewhere in this Ordinance and may be partially or entirely enclosed within a building. Where a side yard abuts an alley in a non-residential district, loading space may be located in that side yard.

7. Use of Alley for Maneuvering Space: Where a building or use in a non-residential district requiring off-street loading space abuts an alley, such alley may be used for maneuvering space for loading and unloading spaces; provided, however, that no alley abutting any residential district may be so used.

ARTICLE 14-18 SIGN REGULATIONS

14-18-1 Purpose and Intent
14-18-2 Definitions
14-18-3 General Regulations
14-18-4 Measurement of Signs; Sign Area and Sign Height
14-18-5 Sign Lighting Standards
14-18-6 Signs Allowed in the Single Family Residential Zoning Districts
14-18-7 Signs Allowed in the Multiple Family Residential Zoning Districts
14-18-8 Signs Allowed in the MHP, Mobile Home Park Zoning District
14-18-9 Signs Allowed in the PSC, Planned Shopping Center Zoning District
14-18-10 Signs Allowed in the Commercial Zoning Districts
14-18-11 Signs Allowed in the Mixed Use Development
14-18-12 Signs Allowed in the Heritage Area
14-18-13 Signs Allowed in the Industrial Zoning Districts
14-18-14 Temporary Signage and Event Banners
14-18-15 Murals
14-18-16 Permits, Approval and Registration Required
14-18-17 Nonconforming Signs
14-18-18 Enforcement and Penalties

Section 14-18-1 Purpose and Intent

A. The purpose of this Article is to provide fair and comprehensive regulations relating to signs in the Town.

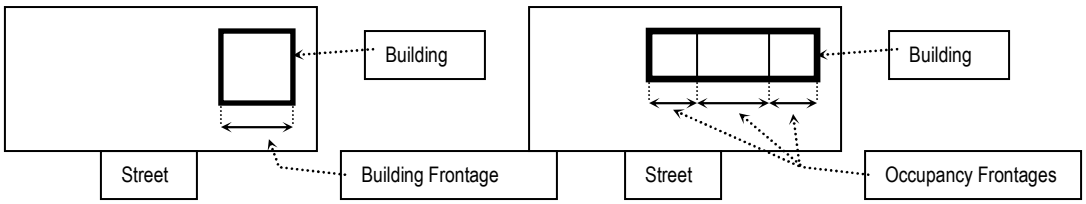
B. It is the intent of the citizens of the Town of Wickenburg to:
   1. Establish a Sign Program to enhance and preserve the aesthetics of the Town and maximize establishment identifications, minimize visual clutter and maintain a high quality of signs throughout the Town.
   2. Promote and protect the general health, safety, welfare and community environment by establishing a comprehensive system for the regulation of all advertizing devices, displays, signs and their housing, structure or form, while maintaining or improving economic stability through an attractive Sign Program.
   3. Reduce signs or advertising distractions and obstructions that may contribute to traffic accidents, and reduce hazards that may be caused by signs.
   4. Preserve the distinct historic character and small Town quality now enjoyed by both the community and visitors alike.

Section 14-18-2 Definitions

1. **Frontage Street:** The width of a lot at the street right-of-way line.

2. **Frontage/Exposure, Building:** The horizontal width of any given building as measured at grade, along the face of the building which is closest to and most nearly parallel with the contiguous street right-of-way line.

3. **Frontage/Exposure, Occupancy**: The width of that portion of a multi-tenant structure which is occupied by a given tenant.



4. **Menu Board**: A sign used to display the establishment's menu items, generally placed on the outside of the building's main entrance or in a drive-thru.

5. **Mural:** A sign painted on the wall of a building or structure in such a manner that the wall becomes the background surface of the sign. Murals shall not be used to promote or advertise a commercial product, service or business.

6. **Raceway:** A cabinet which contains the wiring and wall attachments for sign letters and which projects from the wall. Sign letters are attached to the raceway.

7. **Sign:** Any object, device, display or structure, or part thereof, for visual communication which is used or intended to attract the attention of the public, when the display of the object, device, display, or structure is visible beyond the boundaries of the public or private property upon which the display is made visible words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Excluded from this definition are: National or State flags, window displays, athletic scoreboards, or the official announcement or signs of government.

8. **Sign, A-Frame:** A portable sign used to display advertising or business logo.

9. **Sign, Abandoned**: An on-site or off-site sign associated with an abandoned business or property that has been vacated for six (6) months or more.

10. **Sign, Advertising:** A sign which lists products, services, and/or prices.

11. **Sign, Animated**: A sign or part of a sign that exhibits movement or the optical illusion of movement of any part of the sign structure, design or pictorial segment, including the movement of any illumination of or the flashing and varying of light intensity, the automatic changing of all or any part of the facing of a sign; the movement of a sign set in motion by the atmosphere. Time and temperature devices shall be considered animated signs. Banners and flags shall not be considered not animated signs.

12. **Sign, Awning, Canopy or Marquee**: A sign that is mounted or painted on, or attached to, an awning, canopy, or marquee that is otherwise permitted by Ordinance. For the purpose of this Ordinance, a marquee is defined as a canopy constructed of rigid materials which projects over an entrance to a building.

13. **Sign, Banner or Temporary Banner**: A sign designed to advertise products, businesses, or events, and which are temporary in nature printed on cloth, vinyl, or plastic suspended from two (2) ends. Attachment or suspension may be from buildings and/or poles. A banner may or may not contain text or graphics.

14. **Sign, Blade:** A sign which hangs perpendicular to the wall face of a building typical of historic building with zero (0) setbacks. Blade signs typically hang over the public right of way.

15. **Sign, Bulletin Board**: A sign which identifies a noncommercial institution or organization on the premises of which it is located and contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages of general interest to the public.

16. **Sign, Business**: A sign which attracts attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

17. **Sign, Construction**: A temporary sign erected on the premises on which construction is taking place, during the period of such construction, reconstruction or repair of a building indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

18. **Sign, Directional**: A sign limited to directional messages, principally to direct and aid the flow of pedestrian or vehicular traffic such as "one-way," "entrance," and "exit" building address and providing directional information relating to points of interest, institutions, facilities and districts.

19. **Sign, Directory**: A sign listing the names and/or uses and/or locations of the various businesses or activities within a building or a multi-tenant development not for the purpose of bringing same to the attention of vehicular traffic.

20. **Sign, Double Face**: A sign having copy on two faces of equal dimension with an interior angle between the two faces of forty-five (45) degrees or less.

21. **Sign, Facade**: See Sign, Wall.

22. **Sign, Face**: The area or display surface used for the message.

23. **Sign, Flashing**: A directly or indirectly illuminated sign which exhibits changing natural or artificial light or color effects by any means whatsoever.

24. **Sign, Freestanding**: A non-movable sign not affixed to a building and mounted on its own self-supporting structure.

25. **Sign, Governmental**: A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

26. **Sign, Ground**: A freestanding sign, other than a pole sign, placed upon or supported by the ground independent of any other structure, except footings.

27. **Sign, Historic**: A sign which can be shown through photographs or other records/evidence to have been in existence prior to 1950.

28. **Sign, Identification**: A sign used to present the name of the business, place, organization, building or person the sign is attached.

29. **Sign, Illuminated**: A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign.

30. **Sign, Mansard**: A sign permanently affixed to a wall or surface designed to protect the edge of a roof, constructed no more than twenty (20) degrees from vertical.

31. **Sign, Memorial**: A sign memorializing a person, event, structure or site.

32. **Sign, Menu Board:** A sign used to display the establishment's menu items. A menu board is generally placed on the outside of the building's main entrance and/or drive-thru.

33. **Sign, Non-Conforming:** A sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

34. **Sign, Obscene:** A sign that the average person, applying contemporary state standards would find that the item, taken as a whole, appeals to the prurient interest, depicts or describes, in a patently offensive way, sexual activity or lacks serious literary, artistic, political or scientific value.

35. **Sign, Obsolete**: A sign which no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product, activity conducted, or product available on the premises where such sign is displayed.

36. **Sign, Off-Site**: A sign which directs attention to any business, commodity, service or entertainment/event conducted, sold or offered at a location other than the premises on which the sign is located.

37. **Sign, Pole**: A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet (6') or more above grade.

38. **Sign, Political**: A temporary sign which supports the candidacy of any candidate for public office, or urges action on a governmental issue, endorses or opposes a political party, or that relates to views about issues placed on the ballot of an upcoming National, State or local level.

39. **Sign, Portable**: A sign that is not permanent, affixed to a building, structure or the ground.

40. **Sign, Private Sale or Event**: A temporary sign advertising private sales of personal property at a residential or other non-commercial property such as "house sales," garage sales," "rummage sales," "estate sales," "bake sales," "lemonade stands".

41. **Sign, Program**: A coordinated program of one or more signs for an individual business establishment or a business center.

42. **Sign, Projecting**: A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

43. **Sign, Real Estate**: A sign pertaining to the sale or lease of a building or premises, or a portion of the building or premises, on which the sign is located.

44. **Sign, Roof**: A sign that is mounted on the roof of a building or which is wholly or partly dependent upon a building for support and which projects above the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard or within six inches (6") of the top of a parapet.

45. **Sign, Soffit**: A sign which hangs underneath a canopy, awning or overhead to help create a pedestrian friendly environment.

46. **Sign, Special Event:** A sign relating to the promotional event such as, but is not limited to, bazaars, street fairs, art fairs, shows, exhibitions, sporting events, runs, bicycling events, block parties, and may include events of a general Town-wide civic or public benefit nature. This does not include private sale or event signs, or special attention attracting devices, as defined herein.

47. **Sign, Special Exhibition:** A temporary sign related to a museum exhibition or special show.

48. **Sign, Temporary**: A sign or advertising display constructed of cloth, canvas, fabric, plywood or other light material that is not permanently attached to the ground, wall, or building and that is designed or intended to be displayed for a period of time not to exceed thirty (30) days.

49. **Sign, Wall**: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.

50. **Sign, Window**: A sign that is applied or attached to the interior or exterior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window. This does not include private sale or event signs, or special attention attracting devices, as defined herein.

51. **Special Attention Attracting Device:** A device, sign, or banner meant to draw attention to a business, event, grand opening, or other activity.

Section 14-18-3 General Regulations

A. Location and Placement of Signs:

1. No sign shall be allowed on any property unless the sign is specifically permitted in the zoning district.

2. No sign may be posted on public or private property, including a right-of-way, without the property owner's prior permission.

3. Every sign and its supporting structure shall be designed and constructed to conform to the provisions of all applicable technical codes.

4. No sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from, any door, window or fire escape nor shall any sign be attached to a standpipe or fire escape.

5. No sign shall be erected or maintained at or near any intersection of streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of its position, shape, color or illumination, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or with any device mounted on a police or fire protection vehicle; or which makes use of the words, "Stop," "Look," "Danger," or any other word, phrase, symbol or character in such manner as to interfere with, mislead, or confuse traffic.

6. No sign shall be erected or painted upon or attached to any tree, rock or other natural feature, or to any fence post or utility pole or structure.

7. The regulations of this Ordinance shall not apply to signs of metal, stone or other incombustible material when built into or attached to the walls of a building or structure, provided that such tablets shall bear only the name of the owner or architect, name or use of the building, date of building erection or reading matter commemorating a person or event. Size of such signs shall be limited to three (3) square feet and no more than one (1) per building.

8. Exposed raceways and cabinets on buildings are prohibited when the light source is visible.

B. Design Criteria:

1. Signs are regarded as an integral and complementary element of the overall architectural character of the Town and shall be integrated with the building and landscape design.

2. All freestanding signs shall have a substantial base or planter with a minimum height of two (2) feet that includes three times (3x) the square footage of the sign and base planted with shrubs various groundcover as outlined and defined within Article 14-19.

3. All signs except those consisting of individual letters mounted against a non-differentiated surface shall have edge treatment or border.

4. Signs, which are designed to be compatible with Town's Western/Southwestern character or typifying those of the roadside west of the 1920's, 1930's and 1940's, are encouraged.

5. Blade and Soffit signs shall be permitted within the Heritage District subject to the following standards:

   a. Encroachment into the right-of-way may be permitted up to three (3) feet. An approved Encroachment Permit shall be required prior to installation and issued by the Zoning Administrator.

   b. Blade signs shall be no larger than six (6) square feet.

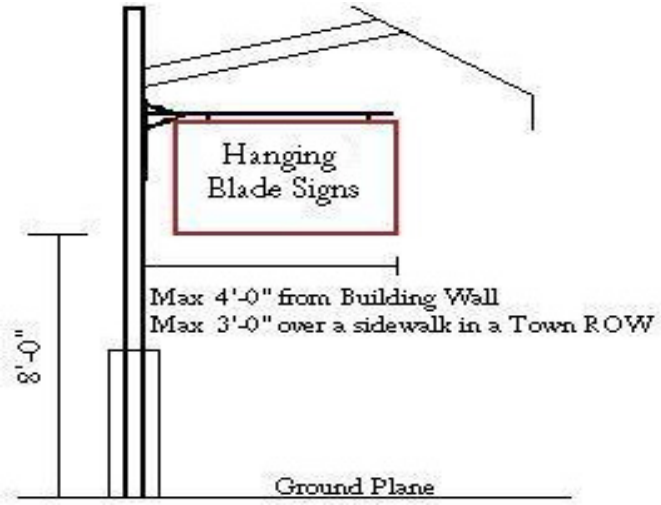
c. Soffit signs shall be no larger than three (3) square feet.

d. A Blade or Soffit sign shall extend no more than four (4) feet from the building wall to which it is connected or adjacent.

e. Minimum clearance shall be no less than seven (7) feet from the ground.

f. Blade or Soffit signs shall not project above the eave, soffit, parapet, or roof line of the building.

g. Lighting shall be limited to external illumination (up or down lighting) where light at the property line measure not more than one (1) foot candle.



h. Lighting shall be limited to external illumination (up- or down lighting) where light at the property line measures no more than one (1) foot candle.

i. No internal illumination shall be permitted.

C. Specific Sign Standards:

1. Directional signs are permitted in any zoning district subject to the following requirements:

a. Offsite

i. Offsite signs shall be located along a State or Federal highway not more than one-quarter (1/4) mile (one thousand three hundred twenty [1,320] feet) from the intersection or turn-off ramp or roadway providing direct access from said State or Federal highway to the facility, institution, area or business district to which the public is being directed.

ii. Offsite signs shall be allowed only upon the approval by the Commission of the size, design and precise location of each individual sign.

b. Onsite

i. Onsite signs shall be allowed in all zoning districts when approved as part of a Sign Program or on an individual basis by the Zoning Administrator or upon appeal from his/her decision as stipulated in Section 14-18-16-D of this Ordinance.

ii. Onsite signs shall be limited in area to three (3) square feet.

iii. Freestanding onsite directional signage shall not exceed four (4) feet in height.

iv. Unless otherwise permitted, directional signs shall not be counted against the total allowed sign area for a given site, building or occupancy.

2. Menu Boards:

a. One (1) preview menu board and one (1) ordering menu board is allowed per business. Such signs may be free standing or wall-mounted.

b. The maximum area for each menu wall-mounted sign shall not exceed six (6) square feet.

c. Sound boxes shall satisfy the following criteria:

i. Noise generated by the sound box shall not emanate beyond the property line.

ii. Maximum height of the sound box shall not exceed four (4) feet.

3. Official Signs or Notices issued by a governmental entity are allowed in all zoning districts and do not require a Sign Permit. Such signs shall be removed no later than ten (10) days following the event to which they refer.

4. The following apply to Private Sale Signs:

a. Such signs do not require a Sign Permit and are permitted in any residential district.

b. Private Sale Signs shall be posted only during the hours the sale is being conducted.

c. Private Sale Signs shall be placed only on private property and shall not be placed on any sign, tree, light pole, fence, traffic signal or controller, utility box or other structure within the right-of-way.

d. The individual or company responsible for installing the Private Sale Signs shall remove them at the end of the private sale or event.

D. Sign Program:

1. Signs for individual establishments wishing to utilize more than two (2) signs or for projects/structures with more than two (2) occupancy frontages shall be allowed only in accordance with a Sign Program as approved by the Zoning Administrator or upon written appeal as specified in Section 14-18-16.D.

2. Submittal requirements for a Sign Program are outlined within Section 14-25-4.G.

E. Obsolete Signs:

1. An obsolete sign and its supporting structure and frames shall be removed by the owner of the property, his agent, or person having the beneficial use of the building or structure upon which such sign or sign structure is erected within six (6) months of the date of the business vacating the premises or of receipt of notification from the Zoning Administrator that the sign is obsolete, whichever is earlier.

F. Maintenance of Signs:

1. Sign Maintenance: All signs shall be maintained in order to prevent and eliminate any peeling, cracking, discoloration, covering with dirt or other material and other similar problems caused by common weather conditions. All signs shall be cleaned and repainted as necessary. All cracked or broken sign faces and nonfunctioning interior lamps shall be repaired or replaced within forty-five (45) working days following receipt of notification from the Zoning Administrator that the sign requires repair or maintenance a thirty day extension may be applied for and submitted to the Zoning Administrator for approval or denial.

2. Appeal: Upon payment of the appropriate fee as established by resolution of the Town Council, any party who may be aggrieved by a maintenance directive may appeal same directly to the Board of Adjustment.

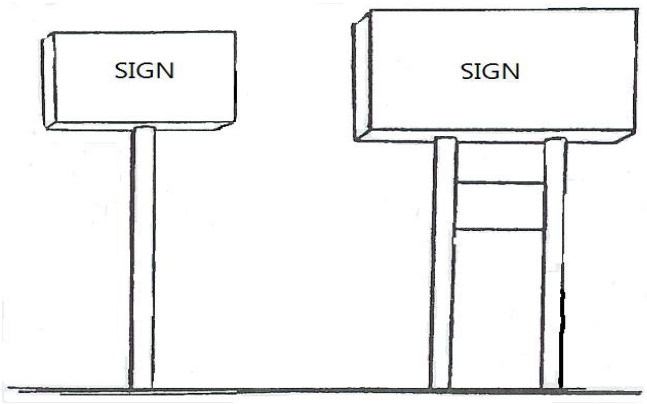
G. Prohibited Signs: Signs not specifically listed within or authorized by this Ordinance are prohibited including, but not limited to, the following:

1. Animated and Flashing Signs: No animated sign or flashing sign shall be allowed except as permitted below:
   a. Where otherwise permissible, by this Article, or any Town Code or ordinance, any pennants, banners, revolving barber poles and clocks including those which alternately display time and temperature having a maximum face area not to exceed three (3) square feet may be installed.

2. Obscene Signs: No person, as principal, agent or otherwise, shall exhibit, post or display or cause or permit to be exhibited, posted or displayed, upon any advertising structure, any obscene statements, symbol or sign.

3. Miscellaneous Signs and Posters: The tacking, painting, pasting or otherwise affixing of signs or posters of a miscellaneous character, visible from a public way, on the walls of buildings, sheds, trees, fences, utility poles or other structures, or upon vehicles or trailers where such vehicles or trailers are used primarily as support for such signs, is prohibited

4. New Pole signs and/or roof signs except as specifically approved by the Commission when it can be found that a ground or wall sign is not feasible due to site limitations of area and/or line of sight interruptions for vehicular traffic. New Pole signs that are approved shall be no more than thirty (30) feet in height.



5. Portable Signs except the following:
   a. Special Event Signs utilized by bona fide nonprofit organizations, educational, religious and charitable, on a periodic basis for a term not exceeding two (2) weeks which announce or provide directional information for/to a special event which is not held more than one (1) time in any given four (4) month period.

   b. Signs which identify a business which are painted on or permanently affixed to an operable vehicle which is utilized on a daily or otherwise regular basis in the conduct of said business.
   c. Temporary A-Frame Signs pursuant to a valid Temporary Sign Permit. ⊘
   d. Temporary banner Signs pursuant to a valid Temporary Sign Permit. ⊘

6. Signs which exceed three (3) square feet in area and which are mounted, attached or painted on motor vehicles, trailers or boats and are parked on the premises.

NOT PERMITTED
OVER 3 SQUARE FEET

7. Offsite signs including any form of remote signage such as off premise advertising signs or billboards unless specifically allowed by this Article.
8. All signage erected for a Home Occupation.
9. Internally illuminated cabinet or can signs when light source is visible.
10. Banner signage shall not be used for permanent signage on a property.

Section 14-18-4 **<u>Measurement of Signs; Sign Area and Sign Height</u>**

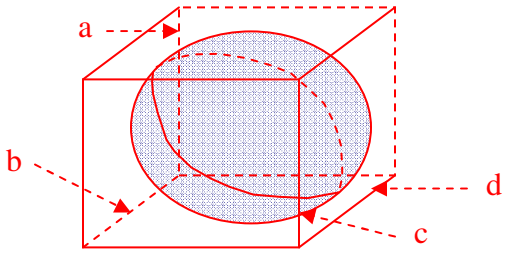
A. All sign areas shall be measured in accordance with the following:

1. The area of signs with all copy mounted on a single geometric plane shall consist of the entire area within a continuous exterior perimeter which bounds all portions of the sign including background panels except those which are entirely opaque and have the same color and texture as the building to which the sign is attached. Necessary structural supports are also excluded from the sign area calculation.

⊘ Ord. 1082/1-17-11

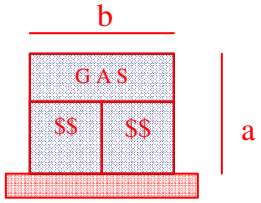
2. Double face signs shall be counted as one (1) sign and the area shall be calculated as that which is visible from any single viewing position on or above the ground.

3. Spherical, free form sculptural and other non-planar signs are counted as one (1) sign and the area shall be calculated as the sum of the two (2) largest of the four (4) vertical sides of the smallest polyhedron that will encompass the sign structure.



(FOR THIS ILLUSTRATION THE SPHERE IS CONSIDERED THE SIGN)

4. For a sign having multiple components (e.g., a service station identification/price sign combination) and mounted on the same surface; the sign area will constitute the area defined by the smallest continuous exterior perimeter that will encompass the several components of the sign.



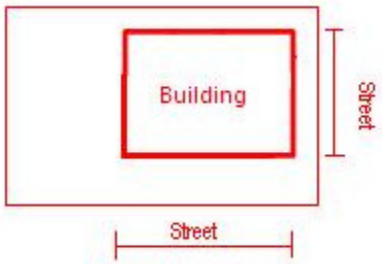
5. Total sign area for a site, building or occupancy shall include the aggregate area of all permitted signs, except onsite directional signs and window signs as allowed by this Ordinance.

6. When calculating the allowed sign area for a given occupancy, the following shall apply:

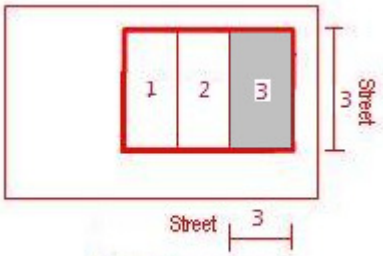
   a. Allowed sign area ratios are indicated in those sections of this Article which set forth the regulations for each respective zoning district.

   b. Interior Occupancies: Allowed sign area calculations shall be based on the linear distance of the width of the single occupancy from which the building or occupancies address is derived.

   c. Corner Occupancies: Each building face shall be allowed sign area based on the ratio of the respective zoning district for each individual building face fronting on a public street. However, in no case shall the aggregate sign area exceed the maximum allowed sign area for a single frontage or interior occupancy business as allowed in the respective zoning district.



Corner Occupancy
Frontage Calculation



Corner Occupancy
Frontage Calculation

d. Diagonal Cutoffs: A corner occupancy which has a diagonal cutoff at the corner may calculate the allowed sign area as follows:

i. Project a line along the front and side exposures to the point of intersection.

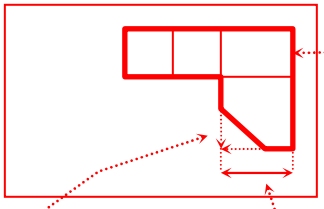
ii. Select the resultant distance for either the front or side exposures projection.

iii. Add the distance of the selected projection into the linear measurement of the actual building exposure for the exposure selected.

iv. The result may be utilized in conjunction with the appropriate ratio for the respective zoning district to establish the allowed sign area for the exposure so measured. The allowed sign area thereby calculated may be placed only: a) on the diagonal cutoff; b) the exposure for which the calculation was made; or, c) upon approval by the Zoning Administrator, a non-calculated exposure.

v. The remaining exposure not calculated with the diagonal cutoff exposure (street or street side) shall be allowed sign area in accordance with the linear distance of the actual building exposure (non-projected) and the ratio allowed by the respective zoning district.

vi. In no case shall the total sign area exceed that allowed by the respective zoning district.



e. Multiple Story Structures: Prior to issuance of a building permit for any multiple story structure, a Sign Program detailing all signage upon the building(s) shall be approved by the Commission. No Sign Permits shall be issued for any sign without such approval.

7. All linear occupancy frontage distances shall be measured at sidewalk or grade level immediately adjacent to that portion of the structure being utilized for the occupancy in question.

B. Sign heights shall be measured as follows:

1. Freestanding/Ground Sign: The height of signs shall be measured as the vertical distance between the top of the curb, or crown of the roadway where no curb exists, to the top of the sign. The total sign height shall include any monument base or other structure erected to support or ornament the sign.

2. Wall Signs: The height of wall signs shall be measured as the vertical distance between the top of the curb, or crown of the roadway where no curb exists, to the top of the sign including ornamentation.

Section 14-18-5 <u>Sign Lighting Standards</u>

The following lighting standards apply to all signs within all zoning districts:

A. Lighting shall be placed to direct the light away from residential districts or residences.

B. Signs illuminated by external lighting shall have the light source shielded in such a manner as to eliminate visibility from and reduce light glare to adjacent properties.

C. Subdivision entrance signs be illuminated by reverse pan channel lettering or hard mounted lettering where light source is shielded in such a way as to eliminate visibility from and reduce light glare to adjacent properties.

Section 14-18-6 <u>Signs Allowed in the Single-Family Residential Zoning Districts</u>

The following signs are permitted in Single-Family Residential Zoning Districts:

A. Address Signs not exceeding two (2) square feet in area. Address signs which are readily visible from the street are required to be installed on all new construction prior to issuance of a Certificate of Occupancy in a manner acceptable to the Town's Public Safety Departments. Address signage shall be verified by the Building Official prior to issuance of a Certificate of Occupancy. Address signs shall not require a permit.

B. Name Plate Sign indicating the resident's name, title and address. Such signs shall not exceed two (2) square feet in area and shall be limited to one (1) per premise or dwelling unit. Name plate signs do not require a permit.

C. Permanent Subdivision Identification Signs may be allowed upon approval by the Commission of the size, color, location, materials and maintenance provisions for the specific sign. It is intended that such signs will be mounted on a monument base or wall. The verbiage shall be limited to the name of the subdivision and shall not include any sales information.

D. Temporary real estate and miscellaneous signs as described in Section 14-18-14-C1.

E. Bulletin Boards for non-commercial organizations or institutions such as schools, civil organizations, or lodges shall be limited to one (1) on the premises and subject to the following conditions:

1. Maximum size: Twelve (12) square feet in area.

2. Maximum Height:
   a. Freestanding Sign: Six (6) feet
   b. Wall mounted: Eight (8) feet

3. If illuminated, the source of illumination shall not be visible.

4. Such sign shall be located at least fifteen (15) feet from any lot line.

F. Other signage allowed in the respective zoning districts may be allowed up to thirty-two (32) square feet of sign area for each building or occupancy upon approval by the Commission of the size, height and location of such signs.

G. Onsite Directional Signs pursuant to Section 14-18-3-C-1.b.

Section 14-18-7 **Signs Allowed in the Multiple Family Residential Zoning Districts**

The following signs are permitted in the RM-1 and RM-2, Multiple Family Residential Zoning Districts:

A. Any sign allowed in the Single Family Residential Zoning Districts, subject to all sign regulations for the aforementioned districts.

B. Signs for an allowed use or building shall be limited to one (1) on the premises and subject to the following conditions:

1. Maximum size: Twelve (12) square feet in area.

2. Such sign shall be located in the front yard.

3. If attached to a building, no part of such sign shall project more than one (1) foot from the building, nor shall it extend beyond the corner of the building nor, shall it extend above the top of a parapet wall, or the eave line of gable, gambrel mansard or similar type roof.

4. If such sign is a ground sign it shall be located at least ten (10) feet from any lot line and it shall not exceed four (4) feet in height.

5. If such sign is illuminated, the source of illumination shall not be visible and no flashing or intermittent illumination shall be employed.

6. For properties with a frontage greater than five hundred feet (500'), an additional ground sign shall be permitted and shall not to exceed twelve (12) square feet for each five hundred foot (500') increment.

Section 14-18-8 **Signs Allowed in the MHP, Mobile Home Park and the RVP, Recreational Vehicle Park Zoning Districts**

The following signs are permitted in the MHP and RVP Zoning Districts:

A. Any sign allowed in the RM-1 and RM-2, Multiple Family, Zoning District.

B. A Sign Program detailing all proposed signs visible from public rights-of-way shall be submitted to the Commission for approval. Such Sign Program shall show the size, location, height, sign copy, type and extent of illumination for any sign proposed to be illuminated.

C. Total sign areas visible from public rights-of-way shall not exceed fifty-five (55) square feet.

Section 14-18-9 <u>Signs Allowed in the PSC, Planned Shopping Center Zoning District</u>

The following signs are allowed in the PSC, Planned Shopping Center Zoning District:

A. Prior to issuance of Sign Permits for any business or occupancy in the Planned Shopping Center Zoning District, a Sign Program detailing all signage within the project shall be approved by the Commission. The following signs are allowed in this District.

1. Identification Sign for each permitted use or principal building subject to the following conditions:

   a. The maximum area of such sign shall not exceed one (1) square foot in area for each two (2) lineal feet of building or occupancy frontage.
   b. No part of such sign shall project more than one (1) foot from the building nor shall it extend beyond the corner of the building nor shall it extend above the height of the building.
   c. Such sign may be illuminated provided the source of such illumination shall not be visible.

2. Identification Ground Sign containing the name of the shopping center and the names of up to three (3) designated primary tenants subject to the following conditions:
   a. Not more than one (1) sign per street frontage of the shopping center.
   b. Such ground sign shall not exceed forty-eight (48) square feet in sign area, nor shall it exceed eight (8) feet in height above grade nor shall it extend or project over any street or alley line.

3. Directional Signs not exceeding two (2) square feet in area.

4. Blade and Soffit Signs in compliance with Section 14-18-3 (b) (5)

5 Menu Boards shall be no larger than two (2) square feet.

6. One (1) parking lot wall or ground sign per parking lot entry or exist not exceeding six (6) square feet in area and limited to off-street parking instructions and direction. Such sign may have interior illumination.

7. Freestanding or pad tenants may be allowed one (1) Ground Identification Sign in accordance with the following:
   a. Such sign shall not exceed twelve (12) square feet in area, exclusive of base.
   b. No such sign shall be located within one hundred (100) feet of any other ground sign.

8. Temporary real estate, construction and subdivision signs pursuant to Section 14-18-14(C) (1). Such signs do not require a Sign Permit.

9. Temporary A-Frame Signs pursuant to a valid Temporary Sign Permit. ⦸

10. Temporary Banner Signs pursuant to a valid Temporary Sign Permit. ⦸

Section 14-18-10 <u>Signs Allowed in Commercial Zoning Districts</u>

A. The following signs are allowed in the C-1, Neighborhood Commercial Zoning Districts:

1. Any sign allowed by this Ordinance in any residential zoning district is subject to the sign regulations of the respective district. In the event that a property within a commercial zoning district is developed with a residential use, the sign allowances shall be those permitted within that residential zoning district.

⦸ Ord. 1082/1-17-11

2. Address Signs not exceeding two (2) square feet in area. Address Signs which are readily visible from the street are required on all new commercial construction regardless of the zoning district prior to issuance of a Certificate of Occupancy. Address signs do not require a Sign Permit.
3. Onsite Directional Signs pursuant to Section 14-18-3(C) (1) (b).
4. One (1) Ground Sign per site not exceeding twenty-four (24) square feet in area nor six (6) feet in height.
5. Window Signs, internal only, shall be permitted within all commercial districts.
6. Total sign area for each building or occupancy frontage shall not exceed one (1) square foot of sign area for each two (2) linear feet of street or occupancy frontage.
7. In no case shall the allowable sign area for each building or occupancy exceed sixty-four (64) square feet including all ground and wall mounted signs.
8. Temporary real estate, construction and subdivision signs pursuant to Section 14-18-13(C) (i). Such signs do not require a Sign Permit.
9. If the property has a Use Permit for a commercial establishment then the C-1 sign regulations shall be allowed.
10. Temporary A-Frame Signs pursuant to a valid Temporary Sign Permit. ⊘
11. Temporary Banner Signs pursuant to a valid Temporary Sign Permit. ⊘

B. The following signs allowed in the C-2, Central Business, Zoning District:

1. Any sign permitted in the C-1, Neighborhood Commercial District.
2. One (1) Freestanding Sign per street frontage per site not exceeding twenty-four (24) square feet in area nor six (6) feet in height.
3. Total sign area for each building or occupancy shall not exceed one (1) square foot of sign area per one and one-half (1½) lineal feet of street or occupancy frontage. Total sign area shall not exceed one hundred (100) square feet per business.
4. In no case shall the allowed sign area for each building or occupancy exceed one hundred (100) square feet including all Freestanding and Wall Mounted Signs except "E" below.
5. Signs identifying the rear or side entrance of any given establishment shall be limited in size to five (5) square feet.
6. Window Signs, internal only, shall be permitted within all commercial zoning districts.
7. Off-site Directional Kiosk shall be permitted if approved by the Town Council.
8. Temporary A-Frame Signs pursuant to a valid Temporary Sign Permit. ⊘
9. Temporary Banner Signs pursuant to a valid Temporary Sign Permit. ⊘

C. The following signs are allowed in the C-3, Major Street Commercial Zoning District:

1. Freestanding Signs in accordance with the following regulations:
   a. One (1) Ground Sign per site, two (2) ground signs per site having a street frontage exceeding five hundred (500) feet.
   b. Ground Signs shall not exceed eight (8) feet in height nor thirty-two (32) square feet in area.

2. Total sign area for each building shall not exceed one and one-half (1½) square feet of sign area per lineal foot of street or occupancy frontage.

3. In no case shall the allowable sign area for each building or occupancy exceed 250 square feet including all Ground and Wall Mounted Signs.

4. Blade and Soffit Signs in compliance with Section 14-18-3(B)(5).

5 Menu Boards shall be no larger than two (2) square feet.

⊘ Ord. 1082/1-17-11

6. Window Signs, internal and external, shall be permitted within all commercial zoning districts.

7. Temporary A-Frame Signs pursuant to a valid Temporary Sign Permit. ⊘

8. Temporary Banner Signs pursuant to a valid Temporary Sign Permit. ⊘

Section 14-18-11 <u>Signs Allowed in the Mixed Use Development District</u>

The following signs are allowed in the Mixed Use Development Zoning District:

A. All signs listed within the C-1 Commercial Zoning District.
B. Upper floor signage is permitted as illustrated below:

C. Temporary A-Frame Signs pursuant to a valid Temporary Sign Permit. ⊘
D. Temporary Banner Signs pursuant to a valid Temporary Sign Permit. ⊘

Section 14-18-12 <u>Signs Allowed in the Heritage Area</u>

A. Historic Signs: Signs which have been accepted and certified as historic by the Commission may be utilized in all zoning districts subject to the following:

1. All such signs shall be restored or recreated in the same precise location for which certification was granted by the Commission.

2. The restoration or recreation of a Certified Historic Sign shall be consistent with the details of color, copy and artwork approved by the Commission.

3. Any such sign may not be utilized to increase the allowed sign area for a business product or service which is located on or sold on the premises for which the Historic Sign was approved; however, the Historic Sign may be utilized in place of non-historic signs regardless of the square footage of the Certified Historic Sign.

4. The Commission may grant historic certification to a sign which was in existence prior to 1950, whether or not the sign has been in continuous use, upon making the following findings as based on the evidence presented:

⊘ Ord. 1082/1-17-11

a. That the sign in question is typical of signs, which were utilized during the time period when the sign was erected, painted or installed.

b. That the sign in question typifies state of the art design and execution as such sign represents.

c. That the recreation or restoration of the sign in question will not detract from the visual quality of the Town's streetscape; nor interfere in any manner with any permitted sign or any sign for which an application has been submitted to the Town.

B. Size Adjustment in Heritage Area:

1. A twenty percent (20%) increase in the area of wall mounted building signs in the Heritage Area may be authorized by the Zoning Administrator or on appeal, by the Commission when it is found that the subject sign(s) is consistent with the following criteria:

a. The sign(s) is part of an approved Sign Program that addresses the character, color, architectural compatibility, size and location of all signs to be located on the subject site and building. The applicant is responsible for providing plans and documentation that addresses architectural compatibility, character, color, size, and location of the proposed signs.
b. Signs that project above the roofline (bottom of eave or top of parapet) are prohibited.
c. Lexan, Plexiglas, plastic, vacu-form, can signs or similar materials or construction are not eligible for the increase in area.

Section 14-18-13 <u>Signs Allowed in the Industrial Districts</u>

A. The following signs are allowed in the IND-1, Planned Industrial Zoning District:

1. Ground or Wall Identification Signs for single tenant sites subject to the following conditions:

a. One (1) sign per street frontage.
b. Maximum sign area shall not exceed two hundred (200) square feet.
c. Maximum height of a ground sign shall not exceed six (6) feet.
d. Maximum height of a wall sign shall not exceed fifteen (15) feet.

2. Identification Wall Sign for each tenant in a multi-tenant site are subject to the following conditions:

a. One (1) sign per street or occupancy frontage.
b. Maximum sign area: Ten (10) square feet.
c. Maximum height to top of sign shall not exceed ten (10) feet.

3. Directory Ground Sign for multi-tenant sites subject to the following conditions:

a. One (1) sign per street or building frontage.
b. Maximum sign area: The lesser of thirty-three (33) square feet or three (3) square feet per tenant.
c. Maximum height: Six (6) feet.

4. Off-Site Monument Sign subject to the following conditions:

a. A finding has been made by the Commission that onsite signage will not provide adequate notice to the traveling public of the location of business(s) located in the Industrial Development.
b. No more than one (1) monument sign per Industrial Development shall be permitted off-site.
c. The size, design, height and location of each Monument sign must be approved by the Commission.

B. The following signs are allowed in the IND-2, Light Industrial Zoning District:

1. Any sign permitted in the IND-1 District – Planned Industrial.

2. Identification Wall Signs for each tenant in a multi-tenant site are subject to the following conditions:

   a. One (1) sign per street or occupancy frontage.
   b. Maximum sign area: Twenty-five (25) square feet.
   c. Maximum height: Ten (10) feet.

C. The following signs are allowed in the IND-3, Heavy Industrial Zoning District:

1. Any sign allowed in the IND-1 District – Planned Industrial.

2. Identification Wall Signs for each tenant in a multi-tenant site are subject to the following conditions:

   a. One (1) sign per street or occupancy frontage.
   b. Maximum sign area: Twenty (20) square feet.
   c. Maximum height: Ten (10) feet.

D. Off-Site Signs shall be allowed only upon the approval by the Commission or upon appeal to the Council, of the size, design, height and precise location of each individual sign.

Section 14-18-14 <u>Temporary Signage and Event Banners</u>

A. <u>Grand Openings</u>: Onsite, Special Attention Getting Devices may be allowed for a maximum period of thirty (30) days commencing with the first (1st) day of the applicant's designated grand opening subsequent to the opening of a new business or change of ownership of an existing business in accordance with the following:

1. No such Special Attention Getting Devices shall in any way interfere with the safe and orderly flow of traffic or in any way present a danger to the health, safety and welfare of the public at large.

2. No such Special Attention Getting Devices shall in any way violate the regulations of any applicable Codes or Ordinances.

3. No Animated or Flashing Signs may be allowed.

4. A Sign Permit authorizing the use of Special Attention Getting Devices must be issued prior to the installation or display of such devices.

B. <u>Special Events</u>: Special Event Signs may be allowed subject to the following:

1. A Sign Permit authorizing the use of Special Event Signs is required except for window signs or posters if such signs are displayed for less than four (4) weeks prior to the special event. All such window signs and posters shall be removed within three (3) days after the last day of the special event.

2. Banners hung for special events shall comply with the requirements of Section 14-18-13(D).

C. <u>Real Estate and Construction Signs</u>.

1. Temporary Signs for real estate, construction and subdivisions shall not require a Sign Permit.

a. One (1) Temporary Sign not more than thirty-two (32) square feet in area, which denotes the realty company, architect, engineer, owner and/or contractor may be established upon the site of any building or structure under construction, alteration or in process of removal. Corner properties are permitted to display two (2) signs at thirty-two (32) square feet in area.

b. Temporary Real Estate Signs. Each lot or parcel of land may have one (1) temporary Real Estate Sign plus one (1) additional sign for every three hundred thirty (330) feet of street or highway frontage in excess of three hundred thirty (330) feet subject to the following:

i. Such signs are limited to advertising the sale, lease or hire of the real property on which they are located.

ii. Such signs are allowed in residential zoning districts subject to the following:

(a) Such signs located on sites of one (1) acre or less may not exceed siz (6) square feet.

(b) Such signs located on sites of more than one (1) acre may not exceed sixteen (16) square feet.

iii. Such signs are allowed in all non-residential zones (MHP, PSC, C-1, C-2, C-3, IND-1, IND-2 and IND-3), but such signs shall not exceed twenty (20) square feet.

c. Removal of Temporary Signs. Temporary Signs referred to in this Subsection shall be removed from the premises within thirty (30) days after the property has been sold or leased, or within thirty (30) days after completion of construction, alteration, or removal of the structure.

d. Placement of Temporary Signs. Temporary Signs referred to in this Subsection may be placed within any required setbacks or yard areas but may not be located in any public rights-of-way.

2. Development "Coming Soon" Signs: Shall be permitted with the issuance of a Temporary Sign Permit and shall not exceed thirty-two (32) square feet in area. These signs are limited to one (1) per lot with the exception of those lots with five hundred feet (500') or more of frontage may erect a second (2nd) such sign. The time limit for "Coming Soon" Signs shall not exceed six (6) months. A Building Permit is required and the building shall be under construction before the sign may be erected.

3. Construction Directional Signage: The Town may issue Temporary Sign Permits to be erected off-site that would provide directions to specific locations if road construction is occurring at or near the place of business. These Permits may be issued for a time period not to exceed six (6) months.

D. Promotional Banners

1. In addition to the banners otherwise authorized by this Article, Temporary Onsite Banners for non-commercial purposes may be posted within the Heritage Area subject to the following standards:

a. Maximum size of three feet (3') in height and fourteen feet (14') in width.
b. Have steel reinforced grommets on every corner of the sign.
c. Be constructed of a durable material with adequate airways.
d. Duration of no longer than four (4) weeks, not to exceed thirty (30) days in a calendar year.

2. The following off-site locations may be used for the display of banners for non-commercial purposes:
a. The eastside of the railroad overpass.
b. The Town Hall fence.
c. The banner arms on the Hassayampa Bridge.

3. The Town shall maintain a Blanket Permit with the Arizona Department of Transportation (ADOT) for the installation of banners in ADOT's right-of-way. The Town will calendar and install all banners in the approved locations. An application for the use of the approved locations must be filed with the Town not less than ten (10) working days prior to the requested installation date.

4. Banners may be displayed in the approved locations for up to two (2) weeks prior to the event and will be removed one (1) day after the event concludes or as soon thereafter, as is feasible for the Town to remove the banner.

5. Banners announcing the events subject to approval of the Zoning Administrator. Any such banner may be hung across Highway 60 or 93/89 for a period not to exceed twenty (20) days immediately preceding the event being announced. All such banners shall be removed within one (1) day after the conclusion of the event.

6. Banners shall require a Temporary Sign Permit to be erected.

E. Special Exhibition Signs shall be permitted subject to the following:

1. Each exhibit shall be permitted a banner for display for no more than two (2) weeks prior to the exhibit date and shall be removed within three (3) days after the last day of the exhibition.

F. Political Signs are allowed in all zoning districts subject to the following: *** Ord. 1082/5-19-14**

1. Political signs up to 16 square feet in area are permitted on property zoned for residential use. Political signs up to 32 square feet in area are permitted on property zoned for nonresidential use, undeveloped town property, and town rights-of-way. Political signs shall not exceed 6 feet in height.

2. Political signs placed within the right-of-way shall contain the name and telephone number of the candidate or campaign committee contact person.

3. Political signs may be placed in town rights-of-way and on town property no more than 60 days before a primary election and shall be removed no later than 15 days following the election.

4. Political signs may be placed in town rights-of-way and on town property used as a polling place only in compliance with the following requirements:

a. Political signs placed in the right-of-way shall not:

i. Block visibility to any roadway or property. A political sign located within 15 feet of back of curb, or edge of pavement if there is no curb, shall be presumed to obstruct clear vision.
ii. Interfere with the requirements of the Americans with Disabilities Act, 42 USC §§ 12101 through 12213 and 47 USC §§ 225 and 611.

b. Political signs posted on property owned by the town of Wickenburg, which is used as a polling place, shall be:

i. Limited to a single sign not exceeding 4 square feet for each candidate or ballot question.
ii. Posted only during the early voting period or on the date of an election.
iii. Located outside the 75 foot limit.

5. A political sign placed in the right-of-way that obstructs clear vision or interferes with the requirements of the Americans with Disabilities Act or otherwise presents a dangerous situation at the discretion of the building inspector shall be deemed to constitute an emergency and, pursuant to A.R.S. section 16-1019, may be immediately relocated or removed by a town peace officer or building inspector. If a sign is relocated or removed under these circumstances, the candidate or campaign committee that placed the sign shall be notified within 24 hours after the removal or relocation.

***Ord. 1137/05-19-14**

6. If a political sign is placed in violation of these requirements but does not constitute an emergency, the town may notify the candidate or campaign committee that placed the sign of the violation and require the sign to be relocated. If the sign is not relocated and remains in violation for more than 24 hours after the candidate or campaign committee was notified, the town may remove the sign. The town shall contact the candidate or campaign committee and shall retain the removed signs for at least 10 business days to allow the candidate or campaign committee to retrieve the sign without penalty.

7. Political signs shall not be placed on any structure owned by the town.

8. Political signs are not counted against the allowed aggregate sign area on the building or property where such sign is displayed.

G. Temporary Sign Standards: Temporary Signs not otherwise addressed by this Article may be allowed in accordance with the following:

1. No such Sign or Special Attention Getting Devices shall in any way interfere with the safe and orderly flow of traffic or in any way present a danger to the health, safety and welfare of the public at large.

2. A Permit authorizing the use of Special Attention Getting Devices must be issued by the Town's Planning and Building Department prior to the installation of said devices. In order to obtain the Permit, the applicant shall make application to the Planning and Building Department along with the required fees as established by resolution of the Council and a plan depicting or narrative describing, the type and location of all Special Attention Getting Devices to be utilized onsite.

3. Temporary Sign Permits may be issued for a total of ninety (90) days per year. This may include one (1) Permit for ninety (90) days or multiple Permits for fewer days where the total time does not exceed ninety (90) total days per year. This Permit may be issued for a time frame beyond ninety (90) days at the discretion of the Zoning Administrator.

H. Ideological Signs:

1. Any sign, temporary or permanent, may contain an ideological message.

2. Ideological Signs shall not require a Sign Permit.

3. Ideological Signs may be placed in any zoning district and on any type of property as long as the sign is placed with the permission of the property owner.

4. An Ideological Sign may not advertise a business or commercial service, and, if it does, will be deemed an off-site sign.

I. A-Frame Signs: ⊘ **Ord. 1082/1-17-11**

Temporary A-Frame Signs shall be permitted in PSC Planning Shopping Center, C-1 Neighborhood Commercial, C-2 Central Business and C-3 Major Street Commercial zoning districts upon the issuance of a Temporary Sign Permit contingent on compliance with the following Conditions:

1. SIZE. A-Frames may be no greater than three feet (3') in width and four feet (4') in height.

2. NUMBER. One (1) A-Frame sign shall be allowed for each business, and two (2) businesses may utilize one (1) shared A-Frame sign.

3, DISPLAY. Only during the posted hours the business is open to conduct business.

⊘ **Ord. 1082/1-17-11**

4. LOCATION. A-Frame signs shall be located only:
   a. At grade level.
   b. On the property of the business being advertised or offsite with the written consent of the property owner.
   c. In Town right-of-way, a minimum of four feet (4') from back of curb or edge of street shoulder should no curb exist.

5. PROHIBITED LOCATIONS. A-Frame Signs shall not be located:
   a. In parking aisles or stalls.
   b. In driving lanes.
   c. On trails.
   d. On public sidewalks.
   e. On fences, boulders, trees, planters, other signs, vehicles, utility facilities, or any structure.
   f. Within a minimum distance of twenty feet (20') from any other A-Frame Sign.

6. CONSTRUCTION AND MAINTENANCE. A-Frame Signs shall be done in a professional manner free from chipping paint, cracks, gouges, and/or loss of letters, and shall be printed material. No hand written signs shall be permitted.

7. ELEMENTS PROHIBITED ON A-FRAME SIGNS. The following shall be prohibited on A-Frame Signs:
   a. Any form of illumination, including flashing, blinking, or rotating lights.
   b. Animation.
   c. Reflective Materials.
   d. Attachments, including but not limited to balloons, ribbons and speakers.

8. TEMPORARY PERMIT REQUIRED. Applicants for A-Frame Signs shall obtain a Temporary Sign Permit, which shall expire one (1) year from date of issuance. If two (2) businesses are advertised on one (1) A-Frame, each business much obtain a Temporary Sign Permit.

9. REMOVAL OF A-FRAME SIGNS. All signs permitted pursuant to this Section shall be removed from the property upon the expiration of the Temporary Sign Permit.

J. Banner Signs: ⊘ **Ord. 1082/1-17-11**

Temporary Banner Signs shall be permitted in PSC Planning Shopping Center, C-1 Neighborhood Commercial, C-2 Central Business and C-3 Major Street Commercial zoning districts upon the issuance of a Temporary Sign Permit contingent on compliance with the following Conditions:

1. SIZE. Banner Signs shall be a maximum size of three feet (3') by fourteen feet (14').

2. NUMBER. One (1) Banner Sign per business.

3, DISPLAY. Banner Signs shall be permitted to be displayed at all times as long as the banner is firmly affixed to the building of the business. Banner Signs that are not firmly affixed to the building of the business are permitted only during the posted hours the business is open to conduct business.

4. LOCATION. Banner Signs shall be located only:
   a. On the building of the business below the roof line on the property of the business securely attached to freestanding poles.
   b. In Town right-of-way, a minimum of four feet (4') from back of curb or edge of street shoulder should no curb exist.

⊘ **Ord. 1082/1-17-11**

5. PROHIBITED LOCATIONS. A-Frame Signs shall not be located:
   a. In parking aisles or stalls.
   b. In driving lanes.
   c. On trails.
   d. On public sidewalks.

6. ELEMENTS PROHIBITED ON A-FRAME SIGNS. The following shall be prohibited on A-Frame Signs:
   a. Any form of illumination, including flashing, blinking, or rotating lights.
   b. Animation.
   c. Reflective Materials.
   d. Attachments, including but not limited to balloons, ribbons and speakers.

7. TEMPORARY PERMIT REQUIRED. Applicants for Banner Signs shall obtain a Temporary Sign Permit, which shall expire one (1) year from date of issuance.

8. REMOVAL OF BANNER SIGNS. All signs permitted pursuant to this Section shall be removed from the property upon the expiration of the Temporary Sign Permit.

Section 14-18-15 <u>Murals</u>

A. Murals may be allowed in the C-1, C-2, C-3, RR and MUDD zoning districts in accordance with the following criteria and stipulations:

1. No mural may be used for the off-site advertising of a business.

2. All murals shall require a Sign Permit.

3. All mural applications shall be accompanied by a detailed color rendering of the proposed mural shall be filed with the Zoning Administrator for submittal to the Town Council. The Council shall review the proposal in the context of the following criteria:

   a. Size and context.

   b. Content: Commercial content or advertising of any kind is prohibited.

   c. The relationship of the mural to community character.

   d. Qualifications and ability of artist to maintain (or later remove) the mural.

   e. Maintenance or Obliteration Plan.

4. The Zoning Administrator shall submit recommendations to the Town Council to approve, approve with conditions or deny the mural application. A written letter of decision shall be mailed to the applicant. The letter shall include all conditions attached to the decision.

5. In order to approve a proposed mural, the Zoning Administrator shall make the following finding: "That the proposed mural is appropriate as to size, content, relationship to the community and further, that the Zoning Administrator has investigated the artist's qualifications and found him/her to be competent to complete the project and that the maintenance plan will keep the original appearance fresh."

6. In the event the mural application is rejected, the applicant may appeal the decision to the Zoning Administrator. If the Zoning Administrator upholds the decision to deny the mural application, the Zoning Administrator's decision may be appealed in accordance with the procedures set forth in Section 14-18-16(d) of this Article.

Section 14-18-16 <u>Permits, Approval and Registration Required</u>

A. When this Article requires a Sign Permit or approval of the Zoning Administrator, an application for a Sign Permit shall be made on forms provided by the Zoning Administrator. When a Sign Permit is required, the Zoning Administrator shall examine applications within a reasonable time after filing for the Permit. If it appears from the application and any supporting documents that the requested sign(s) and any existing sign(s) or uses directly related to the application and in the ownership and control of the Permit applicant violate any applicable provision of this Article or any other Town Code or Ordinance, then the Zoning Administrator shall not issue the Sign Permit until the violation is corrected.

B. Any sign whether or not a Permit is required may contain a non-commercial message.

C. Sign Permit Required:

1. A Sign Permit and Business Permit is required for all signs, unless specifically accepted excepted, which are intended to be erected, painted or otherwise installed in the Town and for changes to existing legal nonconforming signs to decrease the sign area pursuant to section 14-18-17.A.3. Sign Permits shall not be required for minor repairs or for repainting of any permitted sign. *Ord. 1154
2. Application for Sign Permit: In addition to information required in accordance with the Town's Building Code, application for Signs Permits shall include:

   a. Site Plan indicating the location of the sign in relation to nearby buildings, structures, rights-of-way, easements and driveways.
   b. A scaled drawing indicating the dimensions of the sign, sign copy, all materials and the method of construction and attachment to the building.
   c. Name of person, firm or corporation erecting signs and all attendant structures.
   d. Written consent of the owner of the building, structure or premises on which sign is to be erected.
   e. For a decrease in the sign area of an existing legal non-conforming sign, the applicant shall also provide a photograph and dimensions of the existing sign. *Ord. 1154
   f. Other reasonable information as may be required by the Zoning Administrator when reviewing the application or as the applicant may believe will assist the Zoning Administrator.

D. Appeal of Decision:

1. If the applicant or any interested person is aggrieved by a decision of the Zoning Administrator, the applicant or interested person may submit an Appeal, in writing, together with the appropriate Appeal Fee as established by Town Council resolution, to the Board of Adjustment within ten (10) days following the date of decision by the Zoning Administrator. Within thirty (30) days of the date the Appeal is filed, the Board of Adjustment shall affirm, modify or reverse the decision of the Zoning Administrator.

E. Issuance of and Effect of Permit:

1. If the work authorized by a Sign Permit has not been completed within six (6) months after issuance, the Permit shall become null and void.

2. All rights and privileges acquired under a Sign Permit are mere licenses that are revocable at any time by the Town, and all such Permits shall so state.

3. The granting of a Sign Permit shall not be deemed to be a permit for approval of any violation of this Article. The provisions of this Article shall not be construed as relieving or limiting in any way the responsibility or liability of any person, firm or corporation, erecting or owning any sign, or resulting from the negligence or willful acts of such person, firm or corporation, its agents, employees or workmen, in the construction, maintenance, repair or removal of any sign erected in accordance with a Permit issued hereunder. Nor shall issuance of such Permit be construed as imposing on the Town or its officers or employees, any responsibility or liability by reasons of the approval of any signs, material or devices under the provisions of this Ordinance.

*Ord. 1154/9-21-15

Section 14-18-17 Non-Conforming Signs

A. Legal Non-Conforming Signs shall mean a sign or signs lawfully existing at the time of the enactment of this Article that does not conform to the regulations as set forth herein. Notwithstanding any provisions to the contrary contained herein, a Legal Non-Conforming Sign may be utilized in perpetuity except as noted below:

1. A Legal Non-Conforming Sign may not be altered in any manner not in conformance with this Ordinance; however, the sign(s) shall be maintained as required by Section 14-18-3 of this Article.
2. All signage on a property that has been vacant for six (6) months or more must be brought into compliance or removed.
3. A legal non-conforming sign may be altered to decrease the sign area, subject to compliance with the permitting requirements set forth in section 14-18-16. *Ord. 1154

B. Non-Conforming Signs: Upon adoption of this Ordinance, the following signs shall be removed from display, obliterated or dismantled within six (6) months:

1. Portable Signs, unless specifically authorized in Section 10-18-3 of this Article.
2. Any sign not enjoying or that has lost legal nonconforming status.

Section 14-18-18 Enforcement and Penalties

The Zoning Administrator has the authority to revoke any Permit if the sign authorized by the Permit has been constructed or is being maintained in violation of this Article or the Sign Permit.

A. Notice of the Zoning Administrator's decision to revoke a Sign Permit shall be served upon the holder of the Permit; a) by personally delivering a copy of the notice to the holder of the Permit, or to one of its officers; or b) by leaving a copy of this notice with any person in charge of the premises; or c) in the event that no such person can be found, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by depositing in the United States mail, certified, another copy of the notice addressed to the last known post office address of the holder of the Permit.

B. The notice shall state the reasons and grounds for revoking the Permit, specifying the deficiencies or defects in such sign in a reasonable and definitive manner and the violations charged. Such notice shall specify what repairs, if any, will make such an installation conform to the requirements of this Section and shall specify that the sign must be removed or made to conform to the provisions of this Code within the notice period provided herein. This notice shall be known as a non-compliance notice.

C. The holder of the Permit may Appeal the decision of the Zoning Administrator to the Board of Adjustment. The Appeal must be filed within fourteen (14) days of the date the notice was served.

D. If no Appeal has been filed by the end of the fourteen (14) day Appeal period, then the Permit is revoked and the sign is illegal. The Zoning Administrator then shall initiate the procedure for the removal of the illegal sign.

*Ord. 1154/9-21-15

ARTICLE 14-19 LANDSCAPING, IRRIGATION, AND LIGHTING REGULATIONS

14-19-1 Purpose
14-19-2 Applicability
14-19-3 General Requirements
14-19-4 Permitted Plant Materials
14-19-5 Irrigation and Maintenance Responsibilities
14-19-6 Non-Residential Open Space Requirements
14-19-7 Mobile Home Subdivision, Park, and Recreational Vehicle Park Landscaping
14-19-8 Parking Lot Landscaping and Maintenance
14-19-9 Lighting Requirements

Section 14-19-1 Purpose

The purpose of this Article is to provide requirements for landscaping to enhance to the views within the Town, improve the livability of the residents, provide for screening or buildings and parking, and improve the aesthetics of development through the liberal use of trees, shrubs and various groundcovers.

Section 14-19-2 Applicability

The standards set forth in this Article apply to new developments and developments currently existing if the building or use expands or increases twenty-five percent (25%) above what is currently on the site. The standards set forth in this Article shall be the minimum landscaping requirements for any lot or development as applicable, except buildings or additions to buildings located in the C-2 Zoning District existing prior to July 6, 1987 for which the standards may be modified or eliminated upon approval by the Zoning Administrator on a case by case basis, depending on the area available for the installation of landscaping materials and screening walls.

Section 14-19-3 General Requirements

A. Definitions:

1. **Shrub** - is a horticultural rather than strictly botanical category of woody plant, distinguished from a tree by its multiple stems and lower height, usually less than fifteen to twenty feet (15-20') tall. A large number of plants can be either shrubs or trees, depending on the growing conditions they experience.

2. **Ground cover** - is a plant or other material used for the purpose of growing over or spreading over an area of ground to hide it or to protect it from erosion or drought. For the purposes of this Code, groundcover would include those items listed below in Section 14-19-3(f).

3. **Conifer** - any of various mostly needle-leaved or scale-leaved, chiefly evergreen, cone-bearing gymnospermous trees or shrubs such as pines, spruces, and firs.

4. **Deciduous** - descriptive of trees or shrubs, usually of temperate climates, that shed their leaves annually; characteristic of most hardwoods and a few softwoods.

5. **Evergreen** – descriptive of trees or shrub with foliage that persists and remains green throughout the year.

6. **Clear-Cutting** - a management technique in which all of the trees in an area are cut at the same time. This technique is sometimes used to cultivate shade-intolerant tree species.

7. **Critical Root Zone** - portion of the root system that is the minimum necessary to maintain vitality or stability of the tree. Encroachment or damage to the critical root zone will put the tree at risk of failure.

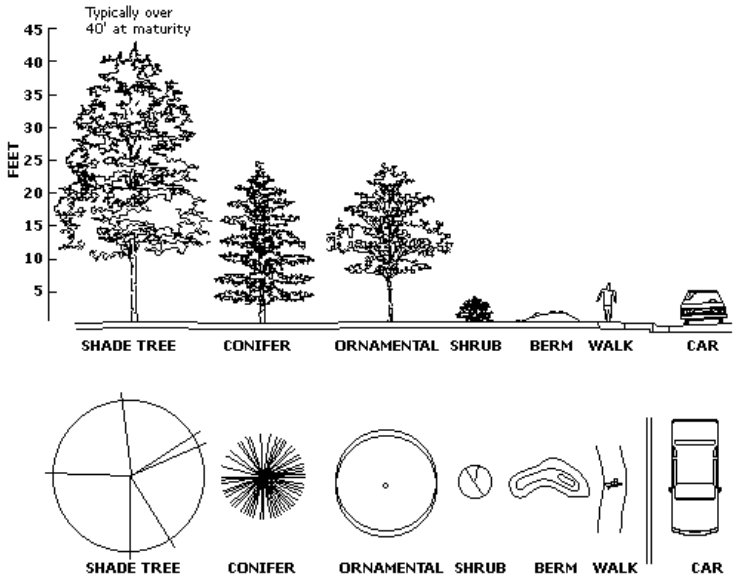
8. **Caliper** - the diameter of a tree trunk indicated in inches or centimeters measured from mid-chest height.

9. **Drip Line** – the imaginary line under the outer most leaves of the canopy of a tree. This line is used as a reference point for watering and feeding trees, shrubs, and plants.

10. **Frontage** – shall include property lines adjacent to streets.

11. I**nterior Property Lines** – shall include sides and rear property lines when not adjacent to a street.

12. **Symbology** --



B. Landscape Plan Required: a Landscape Plan shall be submitted with all Site Plan reviews for all non-residential uses.

C. Timing of Landscaping Installation:

1. Phased Projects:
   a. All perimeter landscaping for the project shall be installed at the time of the phase of development being constructed and shall be completed prior to issuance of the first Certificate of Occupancy.

   b. Interior landscaping relating to the phase under development shall be installed prior to issuance of a Certificate of Occupancy.

D. Landscaping within a Development (Multiple Family Residential open space, Mobile Home Park, Recreational Vehicle Park, Commercial, Planned Shopping Center, Industrial) shall comply with the following:

1. Quantity of Landscaping:
   a. Within property line landscape buffers: one (1) tree and four (4) shrubs per twenty (20) linear feet.

   b. Within interior landscaped areas: one (1) tree and six (6) shrubs per four hundred (400) square feet.

2. All shrubs planted shall be a minimum of one (1) gallon in size.

3. Groundcover as defined below in 14-19-3(f).

4. Trees planted shall have the following characteristics:
   a. Low litter
   b. Evergreen
   c. Drought Tolerant

5. A Saguaro or similar cactus having a minimum height of eight feet (8') may be substituted for a twenty-four inch (24") box tree.

6. All unpaved areas that are open to the sky shall be landscaped.

7. Planting Details: All required plant materials shall be installed in a hole having a minimum dimension that is twice (2x) the diameter and six inches (6") deeper than the dimension of the root ball of the plant to be installed. All backfill shall consist of a combination of topsoil as amended for the specific soil conditions, which have been identified on the site by the Landscape Architect or Designer.

E. Groundcover: All areas not containing a structure, driveway, pedestrian path, or sidewalk shall contain groundcover as defined above. Groundcover planted in the designated area at an on-center distance which can be reasonably expected to provide total coverage of the area required to be landscaped within a one (1) year period as determined by the average rate of growth for the given plant species and variety. Groundcover may also consist of in whole or in part, rock, "river run rock" or decomposed granite when utilized in conjunction with a "desert" Landscape Plan.

F. Maintenance:
   1. Provision shall be made for appropriate water service to all landscaped areas requiring water.

   2. All plant materials shall be maintained in a living condition and dead materials shall be replaced within thirty (30) days. The developer shall be responsible for the first (1st) year, after which the owner shall be responsible for maintenance and replacement.

   3. All required landscape areas shall be maintained in a weed and litter free condition.

Section 14-19-4 Permitted Plant Materials

Plant materials shall consist of those species recognized as appropriate for landscaping use in Wickenburg's climate:

A. The use of native and/or drought tolerant plants is required.

B. The use of color providing plant materials is encouraged.

C. The use of boulders and other hard decorative or ornamental elements is encouraged.

D. The use of artificial plant materials is prohibited.

Section 14-19-5 Irrigation and Maintenance Responsibilities

A. All plant material installed on a property which requires water for survival shall receive water from a sprinkler or drip line system to ensure the plant material receives adequate water to maximize survivability.

B. All plant materials shall be maintained in a living condition and dead material shall be replaced within thirty (30) days. All required landscape areas shall be maintained in a weed and litter free condition.

Section 14-19-6 <u>Non-Residential Open Space Requirements</u>

The following landscape standards shall apply to all Commercial Districts, the Mixed Use Development District and the Heritage Area. Landscape materials as specified in 14-19-3 shall be installed in the required minimum yard setbacks, except driveways, screening walls, or signs as follows:

A. Entire front yards and street side yards of all zoning districts listed below shall be landscaped.

B. C-1 Commercial:

1. Perimeter Landscaping:
   a. There shall be landscaped frontages having a minimum depth of thirty (30) feet which shall be devoid of parking and structures except for screening walls having a maximum height of three (3) feet.
   b. Minimum landscaping buffer when adjacent to residential developments or zones shall be fifteen (15) feet. In all other cases the minimum landscape setback for interior property lines shall be ten (10) feet.

2. Interior landscaping: Shall provide a minimum of fifteen percent (15%) landscaping not including perimeter landscaping within the interior of the site.

C. C-2 Commercial:

1. Perimeter Landscaping:
   a. There shall be landscaped frontages having a minimum depth of five (5) feet which shall be devoid of parking and structures except for screening walls having a maximum height of three (3) feet.
   b. Minimum interior property line setback for landscaping shall be zero (0) except when adjacent to a residential development or zone in which case the minimum landscape setback shall be ten (10) feet.

2. Interior Landscaping: Shall provide a minimum of ten percent (10%) landscaping not including perimeter landscaping within the interior of the site.

D. C-3 Commercial:

1. Shall provide a minimum of ten percent (10%) landscaping not including perimeter landscaping within the interior of the site.

2. There shall be minimum landscaped frontages having depths equal to fifteen (15) percent of the depth of the developable lot provided, however, that the landscaped setback need not exceed twenty-five (25) feet in depth. Said yards shall be devoid of parking and structures except for allowed signs, delineation devices or screening walls. For the purpose of this Subsection, developable lot shall be defined as that portion of the parcel which is suitable for development, excluding designated floodways, washes and other topographical impediments to development as determined by the Zoning Administrator.

3. Upon approval by the Zoning Administrator, or on Appeal to the Commission, the configuration of the landscape setback may be adjusted as follows:

   a. Calculate the area of the required landscape setback.

   b. The depth of the landscaped setback may be varied to enhance function and aesthetics; however, the landscaped area calculated in "a" above shall, in all cases, be provided within the front fifty (50) feet of the site, and in no case shall the depth of the landscape area be less than ten (10) feet at any given point.

c. Any portion of the adjacent right-of-way which is not occupied by required off-site improvements shall be landscaped.

d. No structure other than allowed signs, delineation devices and screening walls shall encroach into the setback which would have been required by Subsection B-1 above regardless of other approved variations.

4. In order to allow any variation or adjustment in the depth of the landscaped setback, the Zoning Administrator or on Appeal, the Commission shall make the following findings:

a. That within the front fifty (50) feet of the parcel in question an equal or greater area of landscaping is provided as would have resulted by adherence to the landscape setback requirement set forth in Subsection B-1 above.

b. That the variation or adjustment in the configuration of the required setback yields enhanced function, aesthetics and in general an equal or superior development than would have been possible by the strict adherence to the front yard landscape setback requirement set forth in Subsection B-1 above.

E. Mixed Use Development District (MUDD): required landscaping shall be calculated using the commercial and residential standards outlined above according to the percentages of land devoted to both residential and commercial use.

F. Planned Shopping Center (PSC):

1. Perimeter Landscaping:
   a. Frontage: At least thirty feet (30') of the required front yard and the required street side yards in the PSC District.
   b. Interior Property Line.

2. Interior Landscaping: Shall provide a minimum of ten percent (10%) landscaping not including perimeter landscaping within the interior of the site.

G. Industrial (IND-1):

1. Perimeter Landscaping: Shall be twenty five feet (25') plus one foot (1') for each additional foot of building height over twenty (20) feet.

a. If frontage between the two (2) intersecting streets is located partly in a commercial or residential zone, there shall be a landscaped strip having a minimum of twenty five feet (25') extending the entire width of the front yard. Landscaped front yard shall be at least equal to the height of the principal structure and not less than twenty feet (20').
b. There shall be a landscaped street side yard devoid of parking and structures having a minimum width of twenty five (25) feet except for corner lots having the rear lot line in common with the side lot line of a key lot or where the separation of such lot lines is an alley, the yard along each street side of such corner lot shall conform with the front yard regulations.
c. There shall be a side yard on each side of a building having a minimum width of not less than ten (10) feet, except when the side yard is adjacent to a residential or commercial zoning district in which case there shall be a landscaped side yard devoid of parking, and structures having a minimum width of fifty (50) feet.

2. Interior Landscaping: Shall provide a minimum of five percent (5%) landscaping not including perimeter landscaping within the interior of the site.

H. Industrial (IND-2) & (IND-3):

1. Perimeter Landscaping: Shall be fifteen feet (15') plus one foot (1') for each additional foot of building height over twenty (20) feet.
   a. If frontage between the two (2) intersecting streets is located partly in a commercial or residential zone, there shall be a landscaped strip having a minimum of fifteen feet (15') extending the entire width of the front yard. Landscaped front yard shall be at least equal to the height of the principal structure and not less than twenty feet (20').

   b. There shall be a landscaped street side yard devoid of parking and structures having a minimum width of twenty-five feet (25') except for corner lots having the rear lot line in common with the side lot line of a key lot or where the separation of such lot lines is an alley, the yard along each street side of such corner lot shall conform with the front yard regulations.

   c. There shall be a side yard on each side of a building having a minimum width of not less than ten (10) feet, except when the side yard is adjacent to a residential or commercial zoning district in which case there shall be a landscaped side yard devoid of parking, and structures having a minimum width of fifty (50) feet.

2. Interior Landscaping: Shall provide a minimum of five percent (5%) landscaping not including perimeter landscaping within the interior of the site.

Section 14-19-7 **<u>Mobile Home Subdivision, Park and Recreational Vehicle Parks Landscaping</u>**

Landscape materials as specified in 14-19-3 shall be installed in the required minimum yard setbacks, except driveways, screening walls, or signs as follows:

A. Entire front yards and street side yards.

B. Mobile Home Park – Landscape – Open Space Standards:
   1. In order to permit flexibility in the development of mobile home parks, the strict application of regulations pertaining directly to an individual mobile home space or travel trailer space and to the location thereon of mobile homes and travel trailers need not be applied provided any variation therefrom is consistent with the purpose of this Ordinance, open space is maintained at a ratio of two (2) square feet for each square foot of covered area, and the average area per mobile home space or travel trailer space in the mobile home park is not less than three thousand (3,000) square feet, except that there shall be no variation in required minimum distance between mobile homes, travel trailers, buildings, and lot lines.

C. RV Parks: Open space and/or recreational facilities shall be provided at a minimum ratio of two hundred (200) square feet per recreational vehicle space.

   Landscaping and Perimeter Treatment:

   1. A six (6) foot high, eight (8) inch wide, decorative masonry wall and fifteen (15) gallon trees, spaced not more than twenty (20) feet on center shall be installed in those areas abutting adjacent residential zones and public right s-of-way around the perimeter of the park, or an approved alternative shall be installed on the perimeter of the Recreational Vehicle Park. For perimeter yards which are coterminous with street right-of-way lines the wall shall be located at the back of the required landscape setback

   2. A twenty (20) foot landscape strip shall be provided in back of wall as described in Paragraph 1 of this Subsection.

3. All areas other than surfaced areas such as driveways and parking pads or occupied by structures shall be landscaped.

4. One (1) tree shall be provided per five (5) recreational vehicle spaces.

Section 14-19-8 <u>Parking Lot Landscaping</u>

A. Surfacing and Drainage: Every parking lot shall be constructed and maintained so as to provide a hard, all-weather, dust-free surface, properly drained to prevent retention of surface water.

B. Screening: Where the interior side lot line or rear lot line of a parking lot abuts a residential district and is not separated there from by an alley, a solid, un-pierced, masonry screen wall not less than five (5) feet in height above grade shall be erected abutting the lot line; provided, however, in no case shall a screen wall extend closer to a street line than the minimum required setback for residential properties in the same block.

C. Landscaping: The area between the street line and the parking lot shall be suitably landscaped and maintained by the owner or operator of the parking lot.

D. Developments in C-1, C-2, C-3, and PSC Districts shall provide landscape areas in the matrix of the parking lot at a ratio of not less than one hundred (100) square feet per six (6) spaces. Trees shall be no less than a twenty-four to thirty-six inch (24" – 36") box with drip line irrigation. Pedestrian walkways shall be provided for the PSC with shade trees planted along the walkway.

E. Landscape materials as specified in this Section shall also be installed in required setbacks for parking lots.

Section 14-19-9 <u>Lighting Requirements</u>

A. Parking Lot Lighting: All parking lots used shall be illuminated in accordance with the height schedule and standards set forth below:

1. Residential: Fourteen (14) feet maximum
2. Industrial/Commercial: When adjacent to a residential zoning district, fourteen (14) feet maximum
3. Commercial: Twenty (20) feet maximum
4. Industrial: Twenty (20) feet maximum

B. Parking lots, which may be utilized during hours of darkness, shall be illuminated. All parking lots which are not utilized at night shall have timers on all light poles fixtures to turn lights off at the closing of the business or 10:00 p.m., whichever is earlier.

C. All exterior lighting fixtures shall comply with the requirements of Article 14-19A.

D. The wattage for each exterior light fixture on the site shall be indicated in the required Lighting Plan.

E. Exterior lighting shall refer to all sources of light either temporary or permanent used for illumination or advertisement and shall include, but is not limited to any search, spot or flood light for buildings and structures, recreational area, parking lot lighting, landscape lighting, billboards and other signage and street lighting.

F. This Section shall not apply to navigational lighting systems at Airports.

ARTICLE 14-19A WESTERN SKY REQUIREMENTS

14-19A-1 Purposes and Applicability
14-19A-2 Definitions
14-19A-3 Regulations

Section 14-19A-1 Purposes and Applicability

A. Purposes: The purpose of this Article is to:

1. Implement the Wickenburg General Plan related to exterior lighting;

2. Promote and protect the public health, safety and welfare;

3. Preserve, protect, and enhance the natural beauty of the night sky;

4. Encourage and promote the conservation of energy resources;

5. Promote safety and security for persons and property;

6. Eliminate light trespass onto abutting properties;

7 Enhance community personality.

B. Applicability:

1. All exterior lighting installed after the effective date of this Ordinance in all zoning districts in the Town shall conform to the requirements of this Ordinance.

2. Existing exterior lighting installed prior to the effective date of this ordinance shall be considered legal non-conforming.

3. This Article shall not apply to indoor lighting.

Section 14-19A-2 Definitions

A. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Section it's most reasonable application.

1. Area Light: Light that produces over 1800 lumens. Area lights include, but are not limited to, streetlights, parking lot lights and yard lights.

2. Ballast: A device used with a discharge lamp to obtain the necessary voltage, current, and/or wave form for starting and operating the lamp.

3. Bollard: A post-shaped light fixture that is useful along pathways, garden borders and other areas that require definition at night. These fixtures cast light downward in a full 360-degree pattern or have half lenses that confine illumination to 180 degrees. Bollards shall use cut-off optics.

4. Bulb: The source of electric light; to be distinguished from the whole assembly (see luminaire).

5. Candela (CD): Unit of luminous intensity.

6. Existing Lighting: Any and all lighting installed prior to the effective date of this Ordinance.

7. Exterior Lighting: Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting for the intent of this Ordinance.

8. Fixture: The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

9. Floodlight: Light that produces up to 1800 lumens (see addendum 1 for light output of various lamps) and is designed to "flood" a well-defined area with light. Generally, floodlights produce from 1000 to 1800 lumens.

10. Foot Candle: Illuminance produced on a surface one foot (1') from a uniform point source of one (1) candela; measured by a light meter.

11. Full Cut-Off Fixtures: Fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

12. Glare: Intense light that results in discomfort and/or a reduction of visual performance and visibility.

13. Holiday Lighting: Festoon type lights, limited to small individual bulbs on a string.

14. Illuminating Engineering Society of North America (IES or IESNA): The Professional Society of Lighting Engineers, including those from manufacturing companies, and others professionally involved in lighting.

15. Illuminance: Density of luminous flux incident on a surface. Unit is footcandle or lux.

16. Lamp: The source of electric light; the bulb and its housing; to be distinguished from the whole assembly (see Luminaire).

17. Light: The form of radiant energy acting on the retina of the eye to make sight possible; brightness; illumination; a lamp, as defined above.

18. Light Pollution: Any adverse effect of manmade light including, but not limited to, light trespass, uplighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

19. Light Trespass: Light falling where it is not wanted or needed, generally caused by a light on a property that shines onto the property of others.

20. Lighting: Any or all parts of a luminaire that function to produce light.

21. Lumen: Unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one (1) candela. One foot (1') candle is one (1) lumen per square foot. One (1) lux is one (1) lumen per square meter.

22. Luminaire: The complete lighting unit, including the lamp, the fixture, and other parts.

23. Partially Shielded: The bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb.

24. Recessed: When a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

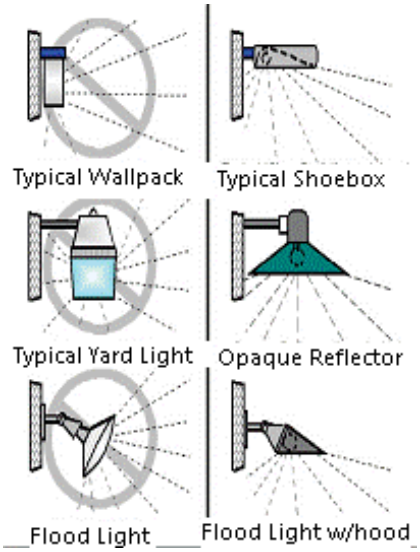
25. Shielded: When the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture.

26. Temporary Lighting: Means lighting that is intended to be used for a special event for seven (7) days or less.

27. Uplighting: Lighting that is directed in such a manner as to shine light rays above the horizontal plane.

Section 14-19A-3 **<u>Regulations</u>**

A. New single family residential plans shall include Lighting Plans showing location of all exterior lights and shall conform to this Section. Plans shall be subject to Plan Review.



B. Applications subject to Section 14-25 shall include Lighting Plans showing location, type, height, and lumen output of all proposed, existing fixtures and sufficient information to verify that proposed lighting conforms to the requirements of this Article. The Planning Director shall have the authority to request additional information in order to achieve the purposes of this Article.

C. All exterior lighting shall have minimum ninety (90) degree cut-off fixtures with the light source fully shielded, except as follows:

1. External shielding may be angled provided that the light does not cause glare or light to shine on adjacent property or public rights-of-way. Floodlights with external or integral shielding shall be angled to eliminate light trespass.

O Ord. 1087/7-11

2. Holiday lights as defined in Section 14-19-10-2(13) are exempt from the requirements of this Article.

3. Sensor activated lighting may be unshielded provided the lighting is located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way, and provided the light is set to only go on when activated and to go off within five (5) minutes after activation has ceased, and the light shall not be triggered by activity off the property.

4. Sports lighting shall be turned off by 11:00 p.m., except to conclude a specific sporting event that is underway.

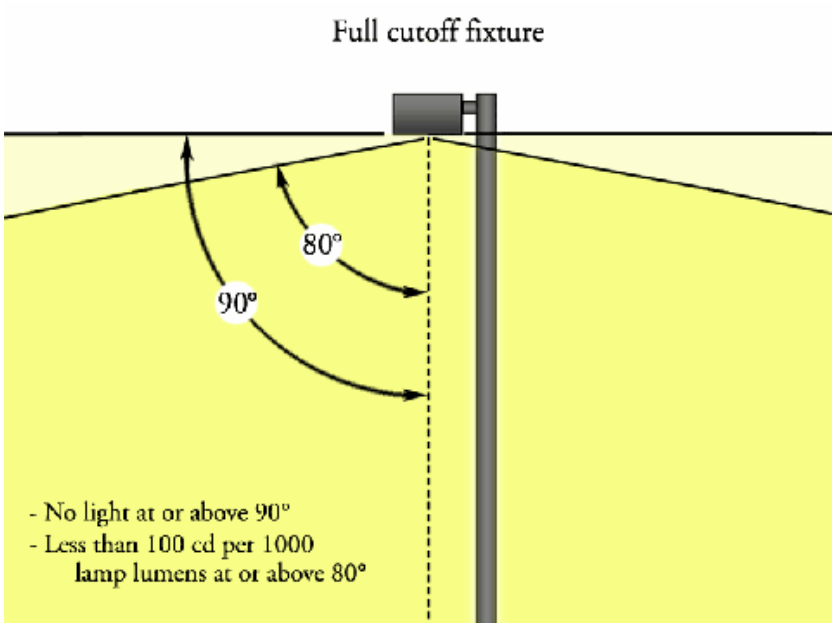
5. Vehicular lights and all temporary emergency lighting needed by the Fire and Police Departments, or other emergency services shall be exempt from the requirements of this Ordinance.

D. Light Trespass: All new exterior lighting shall protect adjacent properties and right-of-way from glare and excessive lighting by eliminating light trespass.

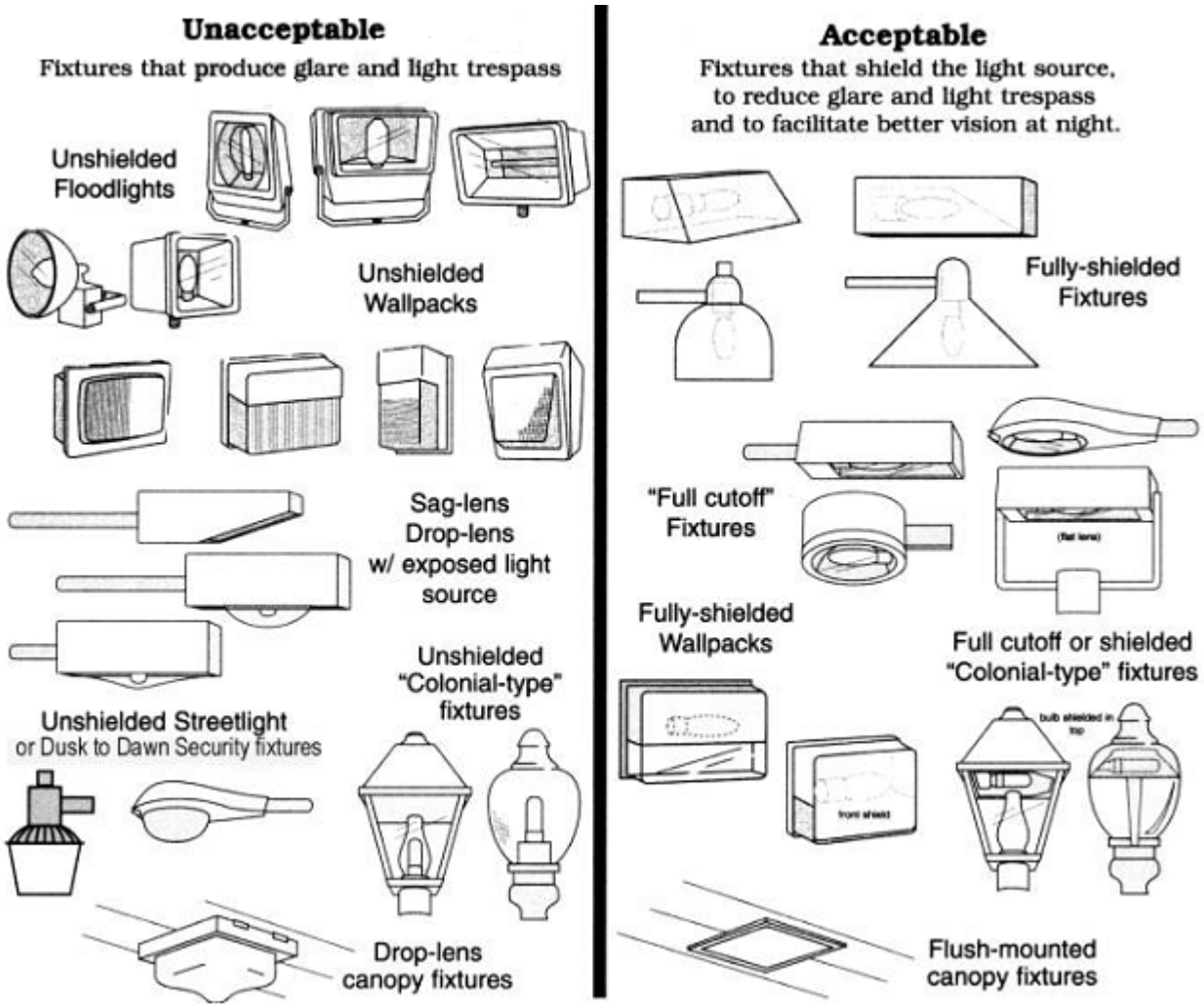
E. Area Lights: All area lights, including streetlights and parking area lighting, shall be full cut-off fixtures and shall be ninety (90) degree or less cut-off type fixtures.

1. Streetlights shall be high pressure sodium, low pressure sodium, or metal halide

2. Streetlights along residential streets shall be limited to a seventy (70) watt high pressure sodium (hps) light.



Dark Sky Society 2009



Dark Sky Society 2009

F. Uplighting: Uplighting is prohibited in all zoning districts, except in cases where the fixture is shielded by a roof overhang or similar structural shield from the sky so as to prevent light spill above the horizontal level.

G. Landscape Lighting: The primary function of landscape lighting is to provide illumination for pathways, steps, and entrances to building.

1. Pathway Lighting: The intent of pathway lights is to provide pools of light to help direct pedestrians along the path, not to fully illuminate the path. Steps and path intersections should be illuminated for safety. The maximum footcandle permitted on the ground is one (1) horizontal footcandle or less. Bollards or solar powered ground lights are acceptable

2. Highlighting, Backlighting: Only low voltage systems are permitted. Lights must be partially shielded and light must not be directed off the property being lighted.

H. Lighting of Flags: The U.S. Code states that: "*it is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four (24) hours a day if property illuminated during the hours of darkness*". The lighting of federal or state flags shall be permitted provided that the light is a narrow beam spotlight rather than a floodlight, carefully aimed to avoid creating a source of glare.

I. Canopy Lights: All lighting shall be recessed sufficiently so as to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent property.

J. Towers: All radio, communication and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light may be used, and for nighttime, only red lights shall be used.

K. Temporary Lighting: Temporary lighting that conforms to the requirements of this Ordinance shall be allowed. Non-conforming temporary exterior lighting may be permitted by the Zoning Administrator only after considering:

1. The public and/or private benefits which will result from the temporary lighting;

2. Any annoyance or safety problems that may result from the use of the temporary lighting;

3. The duration of the temporary non-conforming lighting. The applicant shall submit a detailed description of the proposed temporary non-conforming lighting to the Zoning Administrator. The Zoning Administrator shall provide written notice of said request to owners of property immediately adjacent to the subject property. Said notice shall inform adjacent property owners they may comment on the request during a period of not less than ten (10) days after mailing of the notice and prior to final action on said request.

L. Neon Lights: Neon lights are only permitted pursuant to the Sign Ordinance, Section 14-18 of the Zoning Ordinance.

ARTICLE 14-20 WIRELESS COMMUNICATIONS

14-20-1 Purpose
14-20-2 Definitions
14-20-3 Exemptions
14-20-4 Locations and Height
14-20-5 Permit or Certificate Required
14-20-6 Site and Construction Standards
14-20-7 Applicant's Submittal Requirements
14-20-8 Appeals
14-20-9 Term and Limitations
14-20-10 Applicability; Waiver

Section 14-20-1 Purpose

The purpose of this Article is to regulate Wireless Communications Facilities ("WCF"). The regulations herein are intended to establish reasonable opportunities for citing and provision of wireless communications in the Town, which minimizes-visual clutter and preserves western charm of the Town.

Section 14-20-2 Definitions

A. **Antenna:** Any device used to transmit or receive radio signals or electromagnetic waves between terrestrial and/or orbital-based points. Antennas for wireless communications typically come in a variety of sizes and shapes, including whip, panel, tubular, and parabolic/dish shapes.

B. **Co-Location:** The joint use or placement of antennas or facilities upon a single support structure or area by two (2) or more persons or entities.

C. **Equipment Cabinet:** The structure used to store electronic equipment, cooling systems, and back-up power systems for WCF.

D. **Personal Wireless Services:** Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in Title 47, United States Code, Section 332(7) C.

E. **Support Structure:** Any structure, including any guy wires and anchors, support attached antenna and related accoutrements. Support structures include the following:

1. Monopole: A single steel or wood pole sunk into the ground or secured in a concrete pad.

2. Building: For purposes of this Article, this term shall mean an existing non-residential building.

3. An Existing Structure: An existing structure including but not limited to light poles, water towers, smokestacks, flag poles, lattice towers, and electrical power transmission towers. For purposes of this Article, this term shall not include buildings.

4. An Alternative Tower Structure: a clock tower, steeple, or other feature designed for purposes of housing, camouflaging and concealing wireless communications facilities, and under certain circumstances may be approved by the Commission.

F. **Wireless Communication Facility (WCF):** A facility capable of providing personal wireless services, including a micro cell that is the facility for the transmission and/or reception of radio frequency signals, and which may include antennas, and equipment cabinet or building, transmission cables, a support structure to achieve necessary elevation, and reception and transmission devices and antennas.

G. **Stealth Technology:** Methods used to disguise the location of a wireless communication facility including flagpoles, mono-palms, mono-saguaros, windmills and attaching antenna structures to the roofs of buildings. Stealth technology is preferred.

Section 14-20-3 Exemptions

The following types of wireless communications are exempt from regulations of this Article:

A. Facilities caused to be erected by the Town or other governmental entity for purposes of public safety, including police, fire, and emergency systems.
B. Licensed amateur (ham) radio stations.

Section 14-20-4 Locations and Height

WCF are permitted in the locations described below:

A. **Industrial Zones (IND-1, IND-2, IND-3):**

1. WCFs are allowed up to seventy-five (75) feet in height above natural grade upon obtaining an approval from the Zoning Administrator.

B. **Commercial Zones (C-1, C-2, C-3, PSC):**

1. Monopole-mounted WCF are generally prohibited, but may be permissible up to forty (40) feet in height above natural grade if a Conditional Use Permit is obtained.

2. WCF may be placed on an existing non-residential building, up to ten (10) feet in height above the roofline.

3. WCF may be placed on an existing structure, including co-location on an existing monopole, limited to the height of the existing structure.

4. WCF hidden in an alternative tower structure of up to sixty (60) feet in height above natural grade is permissible, upon obtaining a Conditional Use Permit.

5. Temporary WCF of up to fifty (50) feet in height are permissible.

C. **Residential Zones (R1-175, R1-87, R1-35, R1-18, R1-12, R1-9, R1-6, RM-1, RM-2, MUDD, MHP, RVP)**

1. WCF's are allowed in school recreational fields up to sixty feet (60') in height above the natural grade upon obtaining a Conditional Use Permit.

   a. Replacement of an existing pole or verticality shall be required.
   b. Service Company shall provide evidence that proposed height is necessary to maintain coverage area.
   c. Service Company shall provide evidence that co-location on a different antenna is not an option.

2. Upon any property of the Town, including public rights-of-way, a WCF may be allowed upon obtaining a Conditional Use Permit for a new monopole or alternative tower structure, or upon obtaining a Zoning Compliance Certificate from the Zoning Administrator for any other type of WCF. A license to use Town property will also be required, and compliance with any other requirements or policies of the Town. Nothing herein shall be construed to require the Town to authorize use of Town property.

3. Upon 69kv electric utility tower structures.

4. Upon an electric utility pole in an Electric Substation site.

5. Upon any State, County or Federal property, a new monopole or alternative structure up to sixty (60) feet in height above the natural grade is permitted upon obtaining a Zoning Compliance Certificate from the Zoning Administrator. Written consent of the property owner also must be obtained.

Section 14-20-5 Review Criteria For Conditional Use Permits

A. If a Conditional Use Permit is required it shall be issued upon compliance with the conditions of this Article and any further conditions of Article 14-24-4 (Use Permits) of this Code.

B. If approval by the Zoning Administrator is required for the WCF, a letter shall be mailed to the applicant. The approval letter shall include parcel identification information for record keeping and a list of all conditions attached to the approval of the Wireless Communication Facility.

C. The Town shall act on any application for authorization to place, construct or modify a WCF within a reasonable period of time after such application is duly filed with the Town, taking into account the nature and scope of such request.

D. Any final decision to approve or deny a request shall be in writing and set forth the reasons and substantial evidence for the decision.

Section 14-20-6 Site and Construction Standards

A. Height:
A WCF shall comply with the height restrictions set forth in Section 14-20-4. In addition, it shall meet the height restrictions of Section 14-21-7 (Additional Height Regulations), Paragraph C. (relating to existing or proposed Airport landing strips).

B. Setbacks:
1. For purposes of determining whether a WCF complies with setback requirements, the dimensions of the entire lot shall control, even though a WCF may be located on a leased parcel within that lot.

2. Monopole mounted WCF shall be setback from any adjacent property line a minimum distance of one hundred percent (100%) of the height of the pole, and shall be setback from any residentially-zoned property, a minimum distance of two hundred (200) feet.

3. WCF located in a school recreational field shall be setback from any residentially zoned property a minimum distance of one hundred (100) feet.

C. Design Standards:
1. WCFs mounted on buildings are subject to Development Review under Article 14-25, and shall be screened from residential views and public rights-of-way in a manner architecturally compatible with the building.

2. WCFs mounted on existing structures are subject to Development Review under Article 14-25, and shall be camouflaged from residential views and public rights-of-ways in a manner architecturally compatible with the structure.

3. Artificial lighting of a WCF is prohibited, unless required by the Federal Aviation Administration or other applicable authority.

4. The design, screening, camouflaging or landscaping of a WCF in the Town's designated Heritage Area shall meet the Western/Southwestern Development Theme requirements of Article 14-25.

D. Equipment Cabinets:

1. Equipment cabinets shall be located within the building upon which antennas are placed, if technically feasible. Otherwise, equipment cabinets and/or buildings, and associated equipment such as air conditioning units and emergency generators, shall be screened from view by a wall architecturally compatible with the immediately surrounding area or landscaping maintained in a healthy condition, as approved by the Town. No equipment may be located within required building setback areas.

2. An equipment cabinet shall not exceed eight (8) feet in height and a building shall not exceed one (1) story.

E. Security/Screening Fencing**:**

1. Security/screening fencing/walls is required and shall have an above grade height equal to that of the equipment cabinet. Any fence/wall over six (6) feet in height requires certification by a registered engineer. Chain link fencing is prohibited in all zoning districts except industrial districts. Fencing/screening shall be consistent with the requirements set forth in Section 14-21-9. Anti-climbing features shall be incorporated to the site as needed, to reduce the potential for trespass and injury.

F. Radio Frequency Standards; Interference:

1. The WCF shall comply with Federal Standards for radio frequency emissions. Failure to meet Federal Standards may result in termination or modification of the Permit.

G. Noise**:**

1. A WCF, including backup generators and air conditioning units, shall not generate continuous noise in excess of forty (40) decibels (dba) measured at the property line of any adjacent property.

H. Co-Location:

1. Applicants and permittee's shall cooperate and exercise good faith in co-locating WCF's on the same support structures or site. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing information normally will not be considered as an excuse to the duty of good faith.

2. If a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the Town may require the applicant to obtain a third party Technical Study at applicant's expense. The Town may review any information submitted by applicant and permittee's in determining whether good faith has been exercised.

3. No co-location may be required where the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing telecommunications facilities or failure of the existing WCF's to meet Federal Standards for emissions.

4. Failure to comply with co-location requirements when feasible or cooperate in good faith as provided for in this Article is grounds for denial of a Permit request or revocation of an existing Permit.

Section 14-20-7 Applicant's Submittal Requirements

An applicant shall file an application for a Wireless Communications Use on the standard forms provided by the Town for such purpose and shall be accompanied by plans in duplicate, drawn to scale, showing the following and such other information as the Zoning Administrator may require to insure conformity of the proposed structure with the provisions of this Article:

A. Inventory: An inventory list and map of existing WCF's operated by the applicant within two (2) miles of the proposed site ("Service Area"). The inventory list must include specific information as to location, height, and design of each facility. The Town may share such information with other applicants seeking to locate WCF's within the Service Area, to encourage collocation.

B. Report on Alternatives: If applicant is seeking to construct a new monopole, or if the Town requests, applicant shall explain why co-location or other sites are not feasible, including efforts made to develop such alternatives.

C. Plans for the WCF: Plans should include a diagram, including height, shape, size, and proposed colors of the antennas and other facilities. Plans for a monopole must show it is structurally able to accommodate the applicant and at least one (1) other similar WCF of another company. The plans should include a diagram showing the separation between the proposed WCF and any existing WCF(s) on the same support structure or site, if co-location is planned.

D. A Site Plan consistent with Section 14-25-9 and showing proposed placement of the WCF, and which in addition shows existing trees and vegetation, and proposed landscaping to be used to screen the WCF.

E. Photo-simulations of the view of the proposed facility from residential properties and public rights-of-way at varying distances.

F. Applicant for a new Monopole Use Permit shall post cash or surety bond with the Town Clerk in an amount determined by the Town to cover removal costs of the pole should the applicant/owner fail to remove the pole within thirty (30) days following termination or expiration of Permit. The cash or surety bond shall be released upon removal of the pole by the owner. A surety bond shall be limited to five (5) years, at which time the Town may require renewal for a period which extends at least sixty (60) days beyond the ending date of the Permit term. The cash or surety bond shall be governed by a standardized agreement form provided by the Town and executed by the owner of the monopole.

G. Prior to seeking approval of the Zoning Administrator for a monopole or alternative tower structure for wireless communications use, applicant shall provide written notice of the proposed WCF in a standardized form provided by the Zoning Administrator by first class mail to all property owners within three hundred (300) feet of the proposed WCF site. Applicant shall submit to the Zoning Administrator a copy of the notice and a list of persons and addresses to who all it was mailed.

H. If a Use Permit is required, any other information required under Section 14-24-4 of this Code.

I. Applicants shall pay a Permit Fee as established by resolution of the Council, which fee shall include all consulting costs as may be required by the Town to review the application.

J. If a temporary WCF is sought, applicant shall submit all items, except for those listed in Paragraphs A, E, F and H of this Section 14-20-7.

Section 14-20-8 Appeals

A. For a Conditional Use Permit, appeals shall be governed by Section 14-24-6 except as otherwise provided in this Article.
B. For a decision of the Zoning Administrator, appeals shall be governed by Section 14-24-6.

Section 14-20-9 Term and Limitations

A. A zoning approval of a WCF shall have duration of ten (10) years. A Conditional Use Permit for a permanent WCF shall have a term of ten (10) years.

B. A zoning approval of a temporary WCF shall have duration of up to one hundred-twenty (120) days, subject to termination or expiration as provided for in this Article.

C. Permittee may apply for renewal of a zoning approval or Conditional Use Permit for a permanent WCF under the Code as it may exist at such time within six (6) months prior to expiration of its existing Certificate or Permit.

D. The term of a Conditional Use Permit for a monopole with co-located facilities shall be extended to be concurrent with the term of a subsequently issued approval of the Zoning Administrator for the co-located facilities.

E. Any Permit or Approval Letter issued pursuant to this Article shall expire automatically if the use is not commenced within one (1) year after the date of approval.

F. If use of the facility is discontinued for over ninety (90) days, the Permit shall expire and the owner must remove the facility or the Town may cause the facility to be removed at the expense of the owner.

G. Owner shall maintain the WCF, including paint and landscaping, to standards imposed by the Town at the time of granting the Permit. If the owner fails to maintain the facility, the Town may undertake maintenance at the expense of the owner or terminate the Certificate/Permit.

Section 14-20-10 Applicability; Waiver

A. The requirements of this Article apply to all new WCF's and the renewal, expansion and/or alteration of any existing WCF's, provided that an in-kind or smaller replacement of transmission equipment will only require a written notification to the Town.

B. The Town Council may waive or modify requirements of this Article upon finding that strict compliance would result in noncompliance with applicable Federal or State laws, or the applicant has demonstrated that the proposal is of superior design exceeding the minimum standards and requirements of this Ordinance.

ARTICLE 14-21 GENERAL ADDITIONAL REGULATIONS

14-21-1 Application of General Regulations
14-21-2 Buildings Under Construction
14-21-3 Moving of Buildings
14-21-4 Accessory Buildings and Uses Standards
14-21-5 Additional Lot Area and Dimension Regulations
14-21-6 Additional Yard and Open Space Regulations
14-21-7 Additional Height Regulations
14-21-8 Essential Services Permitted
14-21-9 Fencing and Screening
14-21-10 Pool Requirements

Section 14-21-1 Application of General Regulations

The regulations set forth in this Article qualify or supplement as the case may be, the zoning district regulations appearing elsewhere in this Ordinance.

Section 14-21-2 Buildings Under Construction

Nothing in this Article may be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of this Ordinance and upon which actual building construction has been diligently carried forth. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction.

Section 14-21-3 Moving Of Buildings

No building or structure which has been wholly or partially erected on any premises located either within or outside the Town shall be moved to or be placed upon any other premises within the Town until a Permit for such removal, and written approval for such relocation has been issued by the Zoning Administrator. Any such building or structure shall conform to all provisions of this Article in the same manner as a new building or structure. No such building or structure shall be used or occupied until an Occupancy Permit has been issued, as provided in Article 14-25.

Section 14-21-4 Accessory Buildings and Uses Standards

A. Accessory buildings shall not be constructed upon a lot until the construction of the principal building has been commenced.
B. Accessory buildings may be built in the required rear yard and side yard, no portion of the structure shall be closer than within two feet (2') of the rear or side property lines. Accessory buildings shall not encroach beyond the front of the primary structure on the same lot. Accessory buildings greater than two hundred (200) square feet in area shall not occupy more than thirty (30) percent of the required rear yard. Accessory buildings located on a corner lot shall not be closer to the exterior side property line a distance equal to or greater than one-half (1/2) the depth of the required front yard of the corner lot. When a garage, either attached or detached, is entered from an alley, it shall not be located nearer than ten (10) feet to the alley line. * Ord. 1157

*Ord. 1157/11-15

C. Tennis Courts may be constructed, provided they are located other than in the front yard except on properties consisting of two (2) or more acres and a minimum distance of twenty feet (20') from any property line. Fences within ten feet (10') of the edge of the playing surface may be erected to a height of twelve feet (12'). Lighting is allowed provided that standard does not exceed sixteen feet (16') in height and the outdoor lights shall be directed down and away from adjacent residences and not operated between the hours of 10:00 p.m. and sunrise.

D. Sports Courts, other than Tennis Courts, require a Building Permit. The applicant shall submit a scaled drawing/plan which shall be forwarded to the Commission for review and approval. The Sports Court shall be allowed in other than the front yard setback except on properties consisting of two (2) or more acres.

E. Corrals and customary Accessory Buildings/Structures for the keeping of horses, in compliance with the following:

1. Corrals shall not be located in any portion of the front yard, except on properties consisting of two (2) or more acres.
2. Corrals shall be set back from all lot lines a distance of not less than four feet (4').If the horse property is contiguous to other horse property on the sides and rear, the setbacks for the horse corral, arena, turn out and/or pasture are permitted to be a minimum of two feet (2') from the side and rear property lines.
3. The corral area shall contain at least twelve hundred (1,200) square feet of area for each horse kept therein. Should the corral area have direct access to a turn out area, the corral area shall contain a minimal of four hundred (400) square feet.

F. Accessory Buildings on through lots shall be placed a minimum distance from each street equal to the required front yard setback of such lot.

G. Accessory Buildings shall include the materials and colors of the primary dwelling structure upon the lot.

1. Exceptions: Accessory Buildings that are smaller than one hundred forty-four (144) square feet may be installed on the property without meeting the material and color requirements of the primary structure.
2. Prohibited Materials: No Accessory Building larger than one hundred forty-four (144) square feet shall display an exterior constructed of the following materials:
   a. Corrugated Metal
   b. Aluminum
   c. Untreated Wood
   d. Plywood
   e. Composite Board
   f. Particle Board

H. Accessory Buildings are not permitted on a lot without a primary structure or use (i.e. no storage of materials shall be allowed on a lot as accessory to a construction company where the office for the company is located on a separate lot). Commercial uses shall be permitted to use adjacent lot for storage and Accessory Buildings if the lot containing the primary structure is owned by the same property owner as the adjacent lot.

I. Cooking facilities within Accessory Buildings are prohibited.

J. Guest Houses shall not exceed twenty-five percent (25%) of the area of the primary building or seven hundred fifty (750) square feet, whichever is greater.

Section 14-21-5 Additional Lot Area and Dimension Regulations

A. Any lot of record existing at the time this Ordinance or amendments thereto become effective, which does not conform with the lot area or width requirements of the zoning district in which it is located, may be used for any Use Permitted in that zoning district provided other applicable regulations of this Ordinance are complied with.

B. Any lot, after this Ordinance or amendments thereto become effective, shall not be reduced in any manner below the lot area and dimension requirements of this Ordinance for the zoning district in which it is located, or if a lot is already less than the minimum so required, such lot area or dimension shall not be further reduced.

C. Any lot, after this Ordinance or amendments thereto become effective, shall not be reduced or diminished so as to cause the yards or other open spaces to be less than that required by this Ordinance, or to decrease the lot area per dwelling unit except in conformity with this Ordinance.

D. For through lots, a front yard shall be provided along both front lines.

Section 14-21-6 <u>Additional Yard and Open Space Regulations</u>

A. Yard and Open Space Requirements shall be provided for each building or structure on any given lot. In addition, such Yard or Open Space shall be counted toward another building's Yard or Open Space Requirement.

B. Every part of a required Yard shall be open to the sky, unobstructed, except as enumerated in the following:

1. Accessory Buildings may be located in the required rear yard subject to applicable regulations elsewhere in this Ordinance.

2. Ordinary projections of window sills, cornices, eaves and other ornamental features may project a distance not exceeding three (3) feet into any required yard, except that in the case of Accessory Buildings in the required rear yard, this projection shall not exceed one (1) foot beyond the walls of such Accessory Buildings.

3. Chimneys may project a distance not exceeding two (2) feet into any required yard.

4. Fire escapes may project a distance not exceeding five (5) feet into any required yard such that a minimum of at least two (2) feet is provided between the projection and any lot line or setback line.

5. Bay windows and balconies may project a distance not exceeding three (3) feet into the required front or rear yard, provided that such features shall not occupy, in the aggregate, more than one-third (1/3) of the length of the wall of the building on which they are located.

6. Uncovered stairs and necessary landings may project a distance not exceeding six (6) feet into the required front or rear yard, provided that such stairs and landings shall not extend above the entrance floor of the building except for a railing not to exceed three (3) feet in height.

7. Terraces, patios, platforms and ornamental features that do not extend more than three (3) feet above grade may project into any required yard, provided such features shall be distant at least two (2) feet from any lot line or setback line.

C. Side yards for dwelling units erected above other uses conducted in the same building are not required in excess of the side yards that would be required for such building were it not to contain the dwelling units.

D. Where forty (40) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have observed, with a variation of five (5) feet or less, a front yard greater in depth than that required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.

E. Where forty (40) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have not observed a required front yard, the required front yard for any buildings erected within one hundred (100) feet of existing buildings on both sides shall be a line drawn between the two (2) closest front corners of the adjacent buildings on the two (2) sides; or where a building is to be erected within one hundred (100) feet of an existing building on one (1) side only, such building may be erected as close to the street as the existing adjacent building.

Section 14-21-7 <u>Additional Height Regulations</u>

A. Public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding fifty (50) feet, and churches may be erected to a height not exceeding fifty (50) feet, if the building is set back from each lot line at least one (1) foot for each foot of additional building height above the height limit otherwise permitted in the zoning district in which the building is located.

B. Chimneys, church steeples, refrigeration coolers, or ventilating fans, elevator bulkheads, fire towers, ornamental towers or spires, wireless towers, and mechanical appurtenances necessary to operate and maintain the building, may be erected to a height not exceeding one hundred (100) feet, if such building is set back from each lot line at least one (1) foot for each foot of additional height above the height limit otherwise permitted in the zoning district in which the building is located.

C. Buildings or structures or any portions thereof exceeding a height of twenty (20) feet shall not be erected or structurally altered within five hundred (500) feet of the projected center line of an existing or proposed runway or landing strip for a distance of one thousand (1,000) feet from the end of the existing or proposed runway or landing strip buildings or structures or any portion thereof shall not be erected to exceed a height that would interfere with the takeoff or landing of a plane with a glide angle of one (1) foot vertical for every forty (40) feet horizontal, such glide angle to be computed as beginning at a point on the extended center line of the runway two hundred (200) feet beyond and at the same elevation as the end of the runway pavement; or, if runway pavement is not provided, one hundred (100) feet beyond at the same elevation as the end of the landing strip.

D. The following limitations shall apply to the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, construction and planting on corner lots in all zoning districts where front yards are required:

1. Such barriers to clear unobstructed vision at corners of intersecting streets shall be limited to a height of not over two (2) feet above the established elevation of the nearest street line, for a distance of twenty-five (25) feet along both the front and side lot lines, measured from the point of intersection, of the said intersection lot lines.

2. Within the isosceles triangle formed by measuring along both the front and side lot lines a distance of twenty-five (25) feet from their point of intersection and by connecting the ends of the respective twenty-five (25) feet distances, such barriers shall be limited to a height of not over two (2) feet above the elevation of the street line level at the said intersecting streets.

3. Within the said triangle, and in cases where front yards are terraced, the ground elevation of such front yards shall not exceed two (2) feet above the established street line elevation at said intersecting streets.

E. No fence in any residential district shall exceed six (6) feet in height above grade.

Section 14-21-8 <u>Essential Services Permitted</u>

Nothing in this Ordinance shall prevent the location, erection, construction, alteration or maintenance by a public utility or any essential services.

Section 14-21-9 <u>Fencing And Screening</u>

A. Walls and Screening Devices are required for the screening of the following from public view from any adjacent public right-of-way or adjacent property:

1. Trash and Refuse Areas

2. Outdoor Storage Areas

3. Mechanical Equipment

4. Loading and Unloading Areas

5. Parking Lots

6. Other uses and conditions as specified.

B. Types of Walls and Screening Devices Required are as follows:

1. <u>For the Screening of all Outdoor Storage Areas, Refuse Containers</u>: solid walls, not less than five feet (5') in height above grade shall be erected to adequately screen such areas on all sides which are visible from a public right-of-way, residential zoning districts, and residential uses.

2. <u>For the Screening of all Ground-Mounted Mechanical Equipment</u>: solid walls equal to the height of the equipment shall be erected to adequately screen such equipment on all sides which are visible from a public right-of-way, residential zoning districts, and residential uses.

3. <u>For the Screening of Roof-Mounted Mechanical Equipment</u>: a parapet wall or other screening device, compatible with the architectural style and materials of the building upon which the mechanical equipment is mounted, shall be installed to be no lower in height than six inches (6") below the height of the mechanical equipment on all sides which are visible from a public right-of-way, residential zoning districts, and residential uses.

4. <u>For a Parking Lot Abutting a Residential District</u>: a solid, screening wall not less than five feet (5') in height shall be erected abutting the lot line adjacent to the residential district; provided, however, that in no case shall a screen wall extend closer to a street line than the minimum required setback for adjacent residential properties.

5. <u>Parking Lots</u>: shall be screened or delineated from street view by a masonry wall, split rail fence, berm, landscape materials, or a combination thereof, to a height of three feet (3') above the highest finished grade of the parking lot.

6. <u>Mobile Home Parks and Recreational Vehicle Parks</u>: shall be screened by solid screening walls having a minimum height of six feet (6') along all exterior boundaries of said parks except for driveways.

7. <u>Any Commercial or Industrial Development which is Proposed for a Site Having a Property Line which is Co-Terminus with a Residential Site or Zone</u>: shall provide a six foot (6') masonry wall and fifteen (15) gallon trees, fifteen feet (15') on center along that portion of the property line which is co-terminal.

8. <u>All Side and Rear Yards in Multiple Family Residential, Commercial, and Industrial Developments which are Visible from a Public Street from Other Than the Front Yard</u>: shall provide a six foot (6') screening wall and a four foot (4') wide landscape strip in said yards.

9. Outdoor Sales Lots as Allowed by the Respective Zoning Districts: shall be screened and landscaped in conformance with the requirements for parking lots.

10. Screening Walls: shall be constructed in accordance with the materials and restrictions as citied in Town requirements set forth in Section 14-25-6.D.

11. All Screening Walls, Fences and Plant Materials: shall conform to corner lot line of sight limitations.

12. Fences or Free Standing Walls: shall not to exceed a height of three feet (3'), six inches (6") in any required front yard and not to exceed a height of six feet (6') in other required yards.

13. Chainlink Fences: are prohibited in the required front yard setback in all residential districts.

Section 14-21-10 Pool Requirements

A. Purpose: In order to provide for the health, safety, and general welfare of the public requirements are needed for pools constructed within the Town for both the barrier surrounding the pool and where within any given yard the pool may be constructed.

B. Barrier Requirements: As set forth in A.R.S. § 36-1681.

C. Minimum Pool Setbacks:

1. Front Yard: No pool may be located in the front yard except on properties consisting of two (2) or more acres.

2. Street Side Yard: A pool must meet the minimum setback as outlined within the applicable zoning district for street side yards and placed behind a barrier as described in the International Residential Code and International Building Code. In addition to the above setbacks, the pool edge must be placed a minimum of five feet (5') from the fence or barrier.

3. Setback from Rear and Interior Property Lines: The pool shall be setback a minimum of five feet (5') from the rear or interior side property lines.

4. Setback from Buildings: The pool shall be setback a minimum of five feet (5') from any primary or accessory building.

ARTICLE 14-22 OVERLAY ZONES AND AREAS

14-22-1 Planned Area Development Overlay District: PAD
14-22-2 Heritage Area

Section 14-22-1 Planned Area Development Overlay District (PAD)

A. **Purpose**

The purpose of the Planned Area Development Overlay District (PAD) is to provide development opportunities which maximize flexibility while ensuring that the development meets or exceeds the minimum qualities and standards required by the zoning districts outlined previously within ordinance.

Modern land planning techniques must be provided by the development community to successfully implement the purpose of this overlay zoning district by combining such essentials as useable open space, unique architecture and design principles, and pedestrian environments all with the purpose of increasing aesthetics and livability.

B. **Provisions**

1. A PAD District may consist of one (1) or more underlying zoning districts as permitted by the Zoning Ordinance of the Town. The uses permitted in the PAD District shall be governed by the permitted uses in the underlying district or combination of underlying districts, as approved by the Council. An "underlying zoning district" shall mean those zoning districts set forth in Articles 14-4 through 14-14 of the Zoning Ordinance of the Town.

2. The PAD District shall comply with the requirements of the underlying zoning district(s) except as otherwise set forth in this Article and in the specific Zoning Ordinance establishing the specific PAD District. A PAD District may be approved with modifications of the requirements of the underlying zoning district so long as the intent of this Zoning Ordinance is met and the resulting land use will be of a quality comparable to or exceeding the quality which would otherwise result from use solely of the underlying zoning district(s). A PAD District may allow for onsite density transfer within a residential development, permitting the density regulations of the underlying zoning districts to be applied to the total area of the PAD District rather than separately to individual lots or underlying zoning districts.

3. Notwithstanding the above, no modifications of the requirements of the underlying zones with respect to use shall be approved, nor shall it be construed to require the Council to approve or establish any PAD District.

4. Applications for changes in the underlying zoning district(s) may be submitted and processed concurrently with an application requesting approval of a Planned Area Development Overlay District,

5. Subdivision review under the Subdivision Ordinance may be conducted simultaneously with the review of the PAD application. Development plans submitted under this Section shall, whenever feasible, be submitted in a form which will satisfy the requirements of the Subdivision Ordinance.

6. To ensure compatibility of buildings and uses with each other and with off-site properties, the Council may eliminate otherwise permitted uses in any comparable district. The Council may specify modification of the regulations, requirements, and standards, including but not limited to, conditioning the zoning upon maximum densities, maximum building heights, maximum lot coverage, and greater setback requirements than might be otherwise permitted by the comparable zoning district. Any modification of Development Standards for a PAD overlay shall produce an environment equal to or superior to that produced by existing standards.

C. **Application Features**

Applications for a PAD Overlay Zone may include a request to modify the requirements of the underlying zoning district, except as to use. Modification of the requirements of the underlying zoning district shall be permitted only upon a finding that the proposed land use will include all or a substantial number of features set forth in Paragraph 2 of this Subsection.

1. Landscaping Design Features:
   a. Use of native plant materials.
   b. Use of street landscaping such as, but not limited to, landscaped medians and adjacent rights-of-way.
   c. Pedestrian Way treatment to create an aesthetically pleasing and functional walkway.
   d. Use of recreational and open space areas.
   e. Parking area landscaping.
   f. Perimeter landscaping and walls.

2. Site Design Features:
   a. Compatibility with natural topographic and environmental characteristics.
   b. Preservation of natural features, such as natural washes and topographic features.
   c. Preservation of view shed.
   d. Circulation pattern consistent with good planning principles and the General Plan of the Town as it exists now or in the future.
   e. Variation in building setbacks.
   f. Grouping of buildings (cluster, etc.).
   g. Perimeter setbacks.

3. Architectural Design Features:
   a. Visual and architectural features compatible with the Western/Southwestern character of the Town as described in Article 14-25 Development Review.
   b. Harmonious use of materials.
   c. Variations in dwelling and/or building type.

D. **PAD Process**

1. Conceptual Master Plan and Underlying Zoning District:

   a. An application for rezoning and PAD approval shall be made on forms provided by the Planning and Building Department and the applicant shall provide all applicable information including a Conceptual Master Plan and a General Plan.

   b. A Conceptual Master Plan shall be submitted with the PAD Rezoning Application including the following documents and information:

      i. A written Legal Description of the property or properties under application for approval.

      ii. A Survey Map noting the property boundaries and legal description, topography, existing structures, adjacent streets (location, name and width) and significant natural features.

      iii. A Conceptual Plan with notes specifying the intended land uses, types of structures and intensities; primary points of access and major interior street alignments; site perimeter setbacks and typical landscaping and screening treatments.

iv. The Conceptual Master Plan shall include the following:

(a) A Narrative Booklet with:

(1) Discussion of proposed development with general information include density, acreage of each type of use (residential, commercial, industrial).

(2) Outline of proposed standards, setbacks, architecture, materials required to be used, colors, lighting, landscaping information and all other information requested by the Zoning Administrator.

(3) Comprehensive Sign Package including font styles, maximum signage per lot, building, frontage, colors.

(4) Linkages with defined and adopted Town wide non-motorized Trail System Plans.

(b) Traffic Impact Analysis when deemed necessary by the Town.

(c) If the area to contain the overlay will incorporate multiple types of uses then basic bubble diagrams of the property dividing the property into the distinct uses (residential, commercial, industrial) shall be required.

v. The Survey Map and Conceptual Master Plan should be combined into one (1) Plan and may include other data as requested by the Planning and Building Department to assure compliance with this Article.

vi. A Schedule for Development of the specific, proposed use or uses for which rezoning is requested. The Schedule for Development shall include a construction schedule for various phases of the development if construction phases are anticipated.

c. The Commission shall hold a public hearing to consider the proposed Rezoning and Conceptual Master Plan within forty-five (45) days of the applicant's submission of all required documents, plans, fees and when the Zoning Administrator deems the application complete. In addition to the notice requirements of this Section and Article 14-24, applications for a PAD Overlay Zone which include a request for onsite density transfer shall include in the notice for the public hearing that the applicant is requesting onsite density transfer, the density required by the underlying zoning district, the proposed deviation and the net density requested. Additionally, notice of an application for a PAD Overlay Zone transfer with a request for onsite density transfer shall be mailed at least fifteen (15) days before the public hearing to all property owners within three hundred feet (300') of the site.

d. The Commission shall make a recommendation to the Council as outlined in Section 14-24-2 of the Request for Modifications to the requirements of the underlying zoning districts, except for modifications to use and densities, when the Commission finds that the proposed PAD Development satisfies the following findings:

i. That the requested PAD modifications to the requirements of the Zoning Ordinance and the underlying zoning district~~s~~ are in the best interest of the Town and will be beneficial to the Town in that a higher quality or more appropriate design has been achieved by granting the PAD Overlay District instead of requiring a standard residential, commercial, or industrial district.

ii. That strict adherence to the requirements of the Zoning Ordinance is not required in order to insure the health, safety and welfare of the future occupants of the proposed development.

iii. That strict adherence to the requirements of the Zoning Ordinance is not required in order to insure that property values of adjacent properties will not be reduced.

iv. That the proposed development is consistent with the goals, objectives and policies embodied in the General Plan as it exists now or in the future.

e. Following the public hearing by Commission, the Council may adopt the Conceptual Master Plan and approve the underlying zoning district by Ordinance. Such Ordinance shall set forth:

i. Any Schedule for Development for the specific use or uses for which the rezoning is being requested.

ii. Any modifications to the requirements of the underlying zoning district or districts, which may be approved.

iii. A stipulation that the Rezoning is conditionally approved subject to the approval of a Final Site Plan within three (3) years of the effective date of the ordinance. The Council may refer the application back to the Commission.

f. The Council may conditionally approve or disapprove any application for PAD Overlay District Zoning. A Conditional Approval may include conditions deemed appropriate by the Council to insure that all required findings as stipulated in Paragraph 1, Subparagraph d. of this Subsection are substantiated.

g. Upon the effective date of the ordinance, the Town Zoning Map shall be amended to designate the affected area with a PAD symbol or symbols on the subject property.

h. All ordinances establishing a PAD Overlay District Zone shall contain as a condition of the Rezoning, a requirement for Final Development Plan approval within three (3) years, in accordance with the Conceptual Master Plan approved by the Council and adopted as an amendment to the Town Zoning Map.

2. Final Development or Site Plan: Within three (3) years of the effective date of the amendment, the applicant shall file with the Commission the following documents:

a. A Final Development or Site Plan incorporating a fully dimensioned Plan locating all proposed streets, structures, parking areas, landscaped areas, walls, sidewalks and other elements of the first phase of the proposed project.

b. A Landscape Plan with schematic representation of the location of all plant materials, hardscape, walkways and screening walls. A Plant Materials Schedule indicating plant name (Latin and common), number and sizes used in the Plan and on-center spacing shall also be required.

c. Typical building elevations for all residential units and specific building elevations for any commercial or recreational buildings.

e. The Final Development or Site Plan shall be in substantial conformance with the Conceptual Master Plan and all requirements and conditions of the amendment adopted by the Council.

f. The Final Development or Site Plan may be submitted separately for each phase of development or as a whole. Each submittal shall require a separate public hearing and approval by the Commission and Council prior to the vesting of the zoning or issuance of Building Permits. When the Final Development or Site Plan is submitted in phases, the first phase shall be submitted as indicated above and each subsequent phase within three (3) years of approval of the previous phase.

g. Where the Planned Area Development (PAD) Overlay District is used to impose special provisions regarding the design and development of a subdivision, the tentative Subdivision Map as described in the Town Subdivision Ordinance (Chapter 11 of the Town Code as amended) may constitute the applicant's Conceptual Master Plan and the Final Subdivision Map as described in said Ordinance shall constitute the Final Site Plan, provided, however, that the Conceptual Master Plan shall include all of the elements and data provided for in Paragraph 1 of this Subsection.

E. **Changes to the Conceptual Master Plan or Final Development or Site Plan**

Following adoption of the Conceptual Master Plan or Final Development or Site Plan, as the case may be, said Plan shall not be changed, amended or altered in any manner except as set forth herein. Any substantial change or alteration in the physical or spatial characteristics of the Plan or its configuration shall be considered an amendment and shall be required to follow the Rezoning Process as outlined in Section 14-24-6.

F. Amendment of a PAD Overlay District

Any amendments or modifications to the Conceptual Master Plan shall be in accordance with the following procedures:

1. Major Amendments. The following changes to the approved Conceptual Master Plan shall be considered major if they involve any one of the following:

   a. An increase of ten percent (10%) or more in the approved total number of dwelling units or in the acreages devoted to commercial or industrial uses.
   b. A significant change in boundary lines of development units.
   c. Any change which could have significant impact on areas adjoining the PAD.
   d. Any change which could have a significant traffic impact on roadways adjacent or external to the PAD.

2. Minor Amendments. All amendments deemed minor by the Zoning Administrator shall be reviewed and approved administratively by the Zoning Administrator upon finding that the amendment is in substantial conformance to the approved General Plan and program.

G. Termination of a PAD Overlay District Classification:

Any Zoning Ordinance amendment adopted under the provisions of this Article shall terminate and the zoning classification of the affected property shall revert to its prior district classification at the end of three (3) years following the effective date of said amendment if the Final Development or Site Plan or phase one thereof has not then been submitted to the Commission and Council for approval. When the submittal is phased, each subsequent phase shall be submitted within three (3) years of approval of the previous phase. The Council may grant one (1) extension of time not exceeding two (2) years for any phase of the development. The Commission and the Council shall hold a public hearing prior to any such reversion.

Section 14-22-2 Heritage Area

A. Purpose: The purpose of the Heritage Area is to provide an area within the Town where architectural styles allowed for future developments will revolve around the historical western and southwestern architecture styles native to the Town.

B. Affected Area: The area affected by the Heritage Area shall include the following boundaries:

1. To the north, the centerline of Mohave Street from its intersection with the centerline of Jefferson Street and extended in a northeasterly direction to the centerline of Sols Wash.

2. Then along the centerline of Sols Wash in a southeasterly direction to its intersection with the centerline of the Hassayampa River.

3. Then in a southeasterly direction along the centerline of the Hassayampa River to the intersection with a line located three hundred (300) feet south of the centerline of Wickenburg Way and thence along said line in a southwesterly direction, paralleling said center line of Wickenburg Way, to the center line of Adams Street.

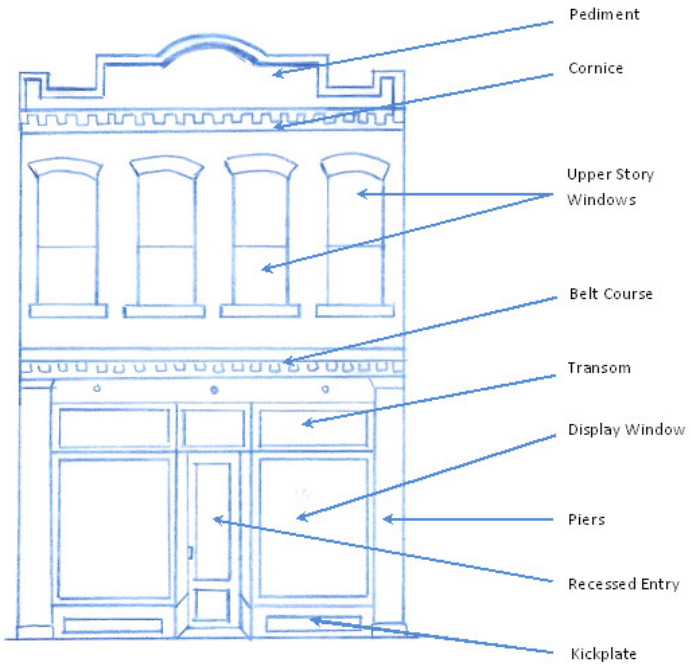
4. Then in a northwesterly direction along the center line of Adams Street to the center line of Santa Cruz Street, then in a northeasterly direction along the center line of Santa Cruz Street to its intersection with the center line of North Jefferson Street.

5. Then in a northwesterly direction along the center line of North Jefferson Street to the point of beginning.

C. Design Elements: All architecture within the Historic Overlay District must reflect the southwestern and western heritage upon which the Town has developed over the years. Design elements that buildings should focus on to create a "period look" include:

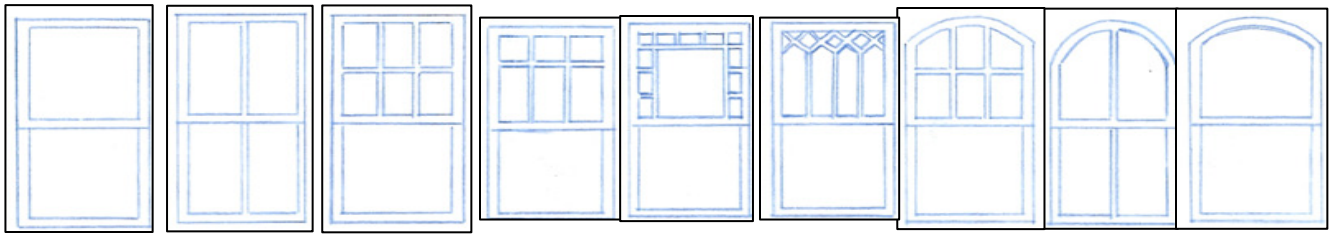
1. Façade Elements.
   a. Materials – brick used to create decorative treatments, stucco, wood (horizontal board, trim).
   b. Wainscots – marble work, tile mosaics.
   c. Pilasters – a rectangular support that resembles a column. These can be used to help minimize horizontal massing.

2. Cornices. Any horizontal decorative "molding" or material which caps a building. Use as a decorative treatment to enhance the appearance of a building.

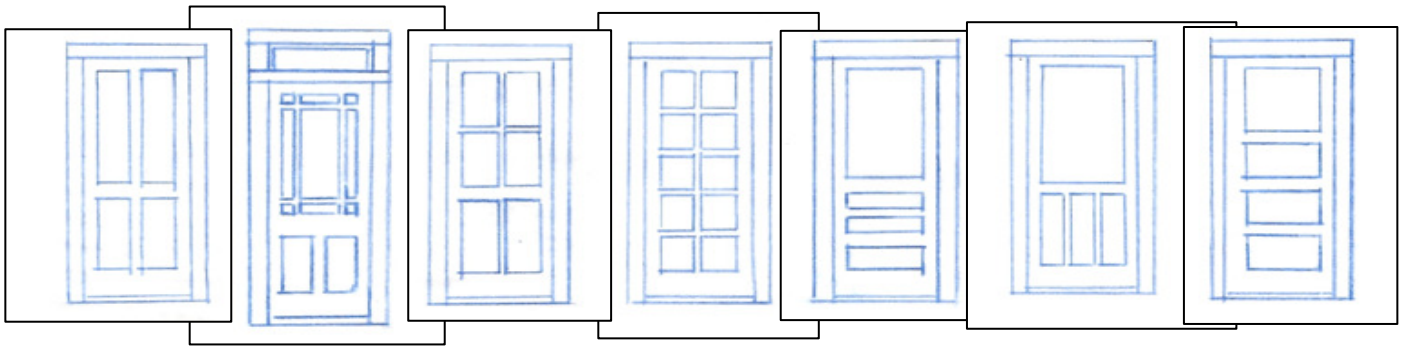


3. Windows/Door Design – windows and doors shall display the following characteristics and styling:

   a. Windows (as illustrated below):
      i. Double hung in pairs.
      ii. Single windows shall be tall and narrow (typically height will be twice (2x) the width).



   b. Doors:
      i. Exterior doors typically are constructed with a wide variation of panels as illustrated below:



4. Decorative Masonry – shall include stucco, brick, concrete block, and any other material approved by the Zoning Administrator.

5. Roofing – gambrel and mansard roofs are prohibited. Gable, hip, flat, and shed roof styles are permitted.

6. Proportion and Directional Emphasis – façade undulation, popouts, and recesses all help create visual interest and reduce the visual impact of massing.

7. Colors – earth tones that reflect the native desert environment.

D. Design Guidelines: Developments should follow the Design Guidelines outlined in Section 14-22-2.c. depending on whether the development is single family residential, multiple family residential, or commercial while incorporating the design elements required within the Heritage Area as listed above.

E. Review Criteria: The following criteria should be used when reviewing an application for rezoning, development, redevelopment, or structure addition:

1. Proposal properly preserves and conforms to the character of the structures located within the Heritage Area.
2. The proposal meets or exceeds minimum Design Standards outlined above and within the respective zoning district.

F. Addenda and Provisos:

1. The Heritage Area Design Standards and Requirements should affect all new construction, redevelopment, and additions to existing structures where the addition is greater than twenty-five percent (25%) of the original structure's size within the area boundaries described above.

2. The Heritage Area is not yet a designated Historical Preservation District by the State Historic Preservation Office or the National Trust for Historic Preservation. The properties which develop within this zone are not placed on a Registry. The Architectural Standards required herein are designed to foster and maintain the western and southwestern heritage upon which the Town has grown.

3. Styles are not to be mixed on any single building.

ARTICLE 14-23 HEARING BODIES

14-23-1 Common Council
14-23-2 Planning and Zoning Advisory Commission
14-23-3 Board of Adjustment
14-23-4 Planning Department
14-23-5 Zoning Administrator
14-23-6 Zoning Hearing Officer
14-23-7 Airport Advisory Commission
14-23-8 Development Review Committee

Section 14-23-1 Common Council

The Common Council shall have the following powers and duties under this Zoning Ordinance:

A. Consider and adopt, reject or modify amendments to the Wickenburg General Plan.

B. Consider and adopt or reject annexation of property and County rights-of-way and roadways.

C. Consider and adopt, reject or modify amendments to the text of the Zoning Ordinance.

D. Consider and adopt, reject or modify amendments to the Zoning District Map.

E. Consider and approve Preliminary and Final Subdivision Plats and amendments thereto pursuant to the Subdivision Regulations.

F. Exercise appeal authority as authorized by the Zoning Ordinance.

G. Appoint the Zoning Hearing Officer and members of the Planning and Zoning Advisory Commission, Board of Adjustment and Airport Advisory Commission.

H. Establish, by resolution, a schedule of fees and charges for the various applications and services provided pursuant to the Zoning Ordinance.

I. Consider, approve and revoke Protected Development Right Plans.

J. Hear and decide requests for reconsideration pursuant to the provisions of Section 14-24-11.

Section 14-23-2 Planning and Zoning Advisory Commission

The Planning and Zoning Advisory Commission shall have the following powers and duties under this Zoning Code:

A. Provide advice to the Council, Town officials, Boards and other governmental agencies related to planning and zoning in the Town.

B. Prepare comprehensive studies and surveys of existing conditions and factors of prospective community growth, the present or future development of the Town, and the use of land and buildings in the Town.

C. Recommend to the Council a General Plan and amendments thereto.

D. Promote public interest in and understanding of the studies and plans it prepares, including publication and distribution of copies of the General Plan or any report relative thereto, and may employ such other means of promoting the Town and distribution of public information as it may determine with prior approval of the Council.

E. Review and make recommendations to the Council regarding proposals to amend the Zoning District Map or the provisions of the Zoning Ordinance.

F. Prepare and recommend Subdivision Regulations for adoption by the Council.

G. Review and make recommendations to the Council regarding annexation of territory into the Town.

H. Assist the Council and the Town staff in preparation of programs for Public Works improvements and for the financing thereof, Administrative Procedures and Regulations to provide effective means for furthering the objectives of the General Plan.

Section 14-23-3 <u>Board of Adjustment</u>

A. The Board of Adjustment shall have the following powers and duties under this Zoning Code:

1. Review applications for Variances upon referral by the Zoning Hearing Officer pursuant to the provisions of Section 14-24-5.

2. Hear and decide Appeals from an interpretation of the Zoning Ordinance by the Zoning Administrator.

B. Ex Parte Communications:

1. To ensure the decision making process is fair and impartial, a member of the Board of Adjustment shall not, directly or indirectly, participate in any ex parte communication relevant to an application pending before the Board. Ex parte communications are oral or written communications related to the matter to be heard by the Board of Adjustment and which is made to or by any member of the Board, including in person, telephonic or electronic communications that occur outside of a public meeting of the Board of Adjustment.

2. Exceptions. This prohibition shall not apply to communications between members of the Board and Town staff. This prohibition is not intended to prevent site visits, the receipt of expert opinions, and the review of mail and other correspondence relating to the proceedings. All such communications shall be documented and entered into the record of the proceedings, as provided for in Subsection 3.

3. Disclosure of Communications. If a Board Member receives an ex parte communication the Board Member shall place the communication in the public record or shall enter into the record a statement describing the time, place, and content of the communication.

Section 14-23-4 <u>Planning Department</u>

The Planning Department shall have the following powers and duties under this Zoning Code:

A. Provide support in the administration and enforcement of the General Plan and Zoning Ordinance.
B. Prepare recommendations for proposed development.
C. Review project submittals including rezonings, Use Permits, site plans, and other applications as assigned by the Zoning Administrator.
D. Provide advice to applicants and residents.

Section 14-23-5 Zoning Administrator

The Zoning Administrator shall have the following powers and duties under this Zoning Code:

A. Administrative:
   1. Administer and enforce the provisions of this Ordinance.
   2. Carry out the order of the Commission authorized by this Ordinance.
   3. Provide notice for public hearings.
   4. Prepare reports.
   5. Interpret the provisions of the Zoning Ordinance.
   6. Interpret zoning district boundaries.
   7. Make individualized determinations regarding Group Home Accommodations pursuant to Section 14-4-3.B.
   8. Approve Home Occupations pursuant to Section 14-4-3.C.
   9. Approve moving buildings pursuant to Section 14-21-3.

B. Limitations of the Zoning Administrator - The Zoning Administrator shall not:
   1. Make changes in or vary the terms of this Ordinance.
   2. Refuse to issue a Building Permit or Zoning or Compliance Certificate when the applicant has complied with all provisions of this Ordinance, the Town Code and other applicable ordinances and Codes, despite any violations of contracts, covenants or private agreements which may result therefrom.

Section 14-23-6 Zoning Hearing Officer

The Zoning Hearing Officer shall hear Appeals of dedications, exactions and zoning regulations and reconsideration of certain matters pursuant to Section 14-24-11.

Section 14-23-7 Airport Advisory Commission

The functions and duties of the Airport Advisory Commission are set forth in Article 3-3 of the Town Code.

Section 14-23-8 Development Review Committee

The Development Review Committee shall hear applications for Development Review pursuant to Article 14-25. The Development Review Committee may approve, conditionally approve, or reject applications for Development Review. The Commission shall be the Development Review Committee.

ARTICLE 14-24 ADMINISTRATION

14-24-1 Procedures – General
14-24-2 Procedures – Adoption or Amendment to a Rezoning Ordinance
14-24-3 Procedures – Text Amendments
14-24-4 Procedures – Use Permits
14-24-5 Procedures – Variances
14-24-6 Procedures – Requests for Interpretation of the Zoning Ordinance
14-24-7 Procedures – Annexations
14-24-8 Procedures – Adoption of General Plan or Amendments to General Plan
14-24-9 Procedures –Claims for Diminution in Value Pursuant To A.R.S. §12-1134
14-24-10 Protected Development Right Plan
14-24-11 Appeals of Dedications, Exactions and Zoning Regulations; Reconsideration of Certain Decisions

Section 14-24-1 Procedures – General

A. Application Process:

1. Applications. Completed applications shall be submitted to the Planning Department on a form established by the Planning Director. Any of the following persons or entities may submit an application:

   a. The owner of the property;
   b. An authorized agent of the owner; or
   c. A person acting under a purchase contract or exclusive option to purchase the property.

   In the event that the application includes properties owned by more than one (1) person, the Zoning Administrator shall notify, by certified mail, all owners included in the area included in the application. Such notice shall be postmarked no later than fifteen (15) days prior to any Commission hearing of the application.

2. Content. The Planning Director shall specify the form and content of applications. The Planning Director may require additional supporting materials as part of the application, including but not limited to, legal descriptions, statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe the existing situation and the proposed project. The applicant shall be responsible for the accuracy and completeness of all information submitted. The Planning Director may waive the submission of specific material or information if he finds it is not needed to reach a decision on the application.

3. Waiver of Diminution of Value. The owner of property that is the subject of an application for a change in Zoning Map, General Plan Land Use Designation, Use Permit, Variance, Modification or Annexation shall include as part of its application an agreement to Waive Claims for Diminution of Value in a form prescribed by the Town consistent with A.R.S. §12-1134. The Waiver shall be executed by all owners of the property. Prior to and as a condition of final approval of a change in Zoning Map, General Plan Land Use Designation, Use Permit, Variance, Modification, or Annexation, the Town may require execution of an updated agreement by the property owner(s) of record. The application shall verify property ownership by submitting a Title Report. No application for amendments to the Zoning District Map, General Plan Land Use Designation, Use Permit, Variance or Annexation will be deemed complete without submission of a Waiver of Claims for Diminution in Value pursuant to the A.R.S. §§ 12-1131 through 12-1138 executed by all the owners of the property. The owner(s) shall verify property ownership by submitting a Title Report or other evidence of ownership satisfactory to the Town. Prior to and as a condition of final approval of a change to any land use law, the Planning Director may require the owner to execute a new waiver of claims.

4. Determination of Completeness. After receiving an application accompanied by the required fee, the Planning Director shall determine if the application is complete within seven (7) working days of the filing date. The Planning Director shall notify the applicant if the application is incomplete. If the application is incomplete, the Town shall identify the items that must be filed to complete the application.

5. Inactive Applications. All applications shall be actively pursued to a decision. If no applicant activity has occurred on an application for one hundred eighty (180) days, the application shall be deemed to be inactive. Thirty (30) days prior to that date, the Planning Director shall notify the applicant in writing that the application will become inactive. If the applicant requests, in writing, that the Planning Director extend the one hundred eighty (180) day period, such request shall be accompanied by an explanation for the period of inactivity. The Planning Director may grant an extension for up to one hundred eighty (180) days for good cause if there is a reasonable belief that the application will be actively pursued during the extension period. If an extension is not approved, the application will be deemed withdrawn and the file shall be closed.

B. Fees: All applications required by the Zoning Ordinance shall be accompanied by the required fees set by resolution of the Council. Applications shall not be accepted without payment of the required fee.

C. Pre-Application Review:

1. Pre-Application Requirements: Pre-Application Review is required before an application for Rezoning, Conditional Use Permit or Variance will be processed.

2. Waiver of Pre-Application Review: The Planning Director may waive the requirement for a Pre-Application Review based on a determination that no purpose will be served by the Review. In such cases, the Planning Director shall prepare a written statement setting forth the reasons for approving the waiver.

3. Pre-Application Meeting: Unless the Pre-Application Review is waived, after reviewing the application for compliance with the Zoning Ordinance, the Planning Director will meet with the applicant or representative to provide comments. Following the meeting, the Planning Director shall provide the applicant with a written summary of comments and place a copy of the comments in the project file.

D. Citizen Review Process:

1. When a Citizen Review Process is required, it shall comply with the requirements of this Subsection.

2. Purpose:
   a. Ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community.
   b. Ensure that the citizens and property owners within the community have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process.
   c. Facilitate ongoing communication between the applicant, interested citizens and property owners, Council, Commissioners and Town staff throughout the application review process.
   d. Ensure that affected citizens of the Town have an opportunity to learn about and comment on proposed text amendments to the Zoning Ordinance that impose, remove or modify a land use regulation prior to formal public hearings regarding the Zoning Ordinance.

3. Adoption of Amendments to Rezoning Ordinances:
   a. A Citizens Participation Plan shall be submitted to the Planning Department. The Citizen Participation Plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to allow for informed decision-making.

b. The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The target area for early notification will be determined by the applicant after consultation with the Planning Department. At a minimum, the target area shall include the following:

i. Property owners within three hundred (300) feet of the subject property measured from the property lines.

ii. Other interested parties who have requested that they be placed on the interested parties' notification list maintained by the Planning Department.

iii. Those residents, property owners, interested parties, political jurisdictions and public agencies that may be affected by the application.

iv. The Planning Department staff may determine that additional notices or areas be included.

c. At a minimum, the following information regarding the involvement of the target area shall be included:

i. How those interested in and potentially affected by an application will be notified that an application has been made.

ii. How those interested and potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application.

iii. How those affected or otherwise interested will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing.

iv. The applicant's schedule for completion of the Citizen Participation Plan.

v. How the applicant will keep the Planning Department informed on the status of the citizen participation efforts.

d. Citizens Participation Meeting: The applicant shall conduct a Citizens Participation Meeting to explain the proposal.

e. Additional Meetings: Extenuating circumstances may warrant additional meetings. As such, the Planning Director has the authority to require the applicant to hold additional Citizen Participation Meetings including, but not limited to:

i. Timeframe between the last meeting and the date of the submittal.

ii. Any substantial changes that have occurred to the development proposal since the last Citizen Participation Meetings were held.

f. Citizen Participation Report:

i. The applicant shall provide a written report on the results of the citizen participation effort within five (5) days of the Citizen Participation Meeting and prior to any notification mailed or posted for a public hearing. This report will be added to the application submittal material for the development and discussed in the staff report presented to the Commission and the Council at the public hearings.

ii. The Citizen Participation Report shall include the following information:

(a) Details of techniques the applicant used to involve the public.

(b) Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal.

(c) Content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters, and other publications.

(d) Where residents, property owners, and interested parties receiving notices, newsletters, or other written materials are located.

(e) The number of people that participated in the process.

(f) The names and address of all those in attendance for tracking purposes.

(g) A summary of concerns, issues and problems expressed during the process, including:

(i) The substance of the concerns, issues, and problems.

(ii) How the applicant has addressed or intends to address concerns, issues and problems expressed during the process.

(iii) Concerns, issues and problems the applicant is unwilling or unable to address and why.

4. Adoption of Text Amendments to the Zoning Ordinance that Impose, Remove or Modify a Land Use Regulation:

a. Notice. The notice of the Citizens Participation Meeting shall contain the date, time and place of the citizens review meeting, the location of where a copy of the proposed text amendment to the Zoning Ordinance can be reviewed. Notice of a Citizen Participation Meeting to discuss the proposed text amendment shall be given as follows:

i. By publication in a newspaper of general circulation in the Town.

ii. By placing a copy of the proposed text amendment in the Planning Department at Town Hall for review.

iii. By any other manner required by the Planning Director.

b. Citizen Participation Meeting. At least one (1) Citizen Participation Meeting shall be held at least five (5) days prior to the formal public hearings of the Commission and the Town Council. Town staff shall conduct the Citizen Participation Meeting to discuss and answer questions about the proposed text amendment. Additional Citizen Participation Meetings may be held if the Planning Director or Town Council determines additional meetings would be beneficial.

c. Citizen Participation Report. Planning staff shall provide a written report on the results of the Citizen Participation Meeting within five (5) days of the Citizen Participation Meeting and prior to any notification mailed or posted for a public hearing. This report will be provided to the Commission and included in the staff report presented to the Council at the public hearings. The Citizen Participation Report shall include the following information:

i. Extent of public involvement and comments submitted by citizens.

ii. Dates and locations of all meetings where citizens were invited to discuss the proposed text amendment.

iii. The names and addresses of all those in attendance for tracking purposes.

iv. A summary of concerns, issues and problems expressed during the process, including:

(a) The substance of the concerns, issues, and problems.
(b) How the concerns might be addressed.

5. Adoption of General Plan or Amendment to the General Plan:

a. NOTICE. The notice of the Citizens Participating Meeting shall contain the date, time and place of the Citizens Review Meeting, the location of where a copy of the proposed text of the General Plan or amendment can be reviewed. Notice of a Citizen Participation Meeting to discuss the proposed General Plan or amendment shall be given as follows:

i. By publication in a newspaper of general circulation in the Town.

ii. By placing a copy of the proposed General Plan or amendment in the Community Development & Neighborhood Services Department at Town Hall for review.

iii. By distributing the proposed General Plan or amendment to all agencies and jurisdictions named in A.R.S. §9-461.06 including, but not limited to, the Arizona Commerce Authority, the Maricopa Association of Governments, the Northern Arizona Association of Governments, School Districts located within the Town, Maricopa County, Arizona Public service, and any person or entity requesting a copy in writing and such other recipients that the governing body shall direct;

iv. By any other manner required by the Community Development & Neighborhood Services Director.

b. Citizen Participation Meeting. At least one (1) Citizen Participation Meeting shall be held at least ten (10) days prior to the formal public hearing of the Commission and Town Council. Town staff shall conduct the Citizen Participation Meeting to discuss and answer questions about the proposed General Plan or amendment. Additional Citizen Participation Meetings may be held if the Community Development & Neighborhood Services Director or Town Council determines additional meetings would be beneficial.

c. Citizen Participation Report. Community Development & Neighborhood Services staff shall prepare a written report on the results of the Citizen Participation Meeting prior to any notification mailed or posted for a public hearing. This report will be provided to Planning and Zoning Advisory Commission and shall be included in the staff report presented to the Town Council at the public hearings. The Citizen Participation Report shall include the following information:

I. Extent of public involvement and comments submitted by citizens.

Ii. Dates and locations of all meetings where citizens were invited to discuss the proposed General Plan or amendment.

Iii. The names and addresses of all those in attendance for tracking purposes.

Iv. A summary of concerns, issues and problems expressed during the process, including:

(a) The substance of the concerns, issues, and problems.
(b) How the concerns might be addressed.

E. Notice of Public Hearings: When an action requires a public hearing, notice of the public hearing shall be given in accordance with the following requirements unless different requirements are set forth in this Ordinance:

1. Published Notice: When notice is required to be published, the notice shall comply with the following requirements:

   a. The notice shall be published at least fifteen (15) days prior to the date of the public hearing at least once in a newspaper of general circulation within the Town. Notice of a hearing on a major amendment to the General Plan shall be posted not more than thirty (30) days prior to the hearing.

   b. A general description of the proposed project or action and the property included in the application.

   c. The date, time, location, and purpose of the public hearing.

   d. The location and times at which the complete application and project file may be viewed by the public.

   e. A statement that any interested person or authorized agent may appear and be heard.

   f. A statement describing how and when to submit written comments.

2. Posted Notice: When notice is required to be posted, the notice shall comply with the following requirements:

   a. The notice shall be posted at least fifteen (15) days prior to the date of the public hearing.

   b. Posting, maintenance and removal of signs are the responsibility of the applicant. Failure to remove the sign within ten (10) days of public hearing action shall result in Town removal of the sign and a charge to the applicant for costs incurred.

   c. The notice shall consist of one (1) four foot by eight foot (4' x 8') sign posted parallel with the street and set back a minimum of five (5) feet from the property line. If a property is bounded by two (2) streets then the sign shall be posted along the street with the higher classification. The notice shall include a description of the request, the general location of the property, the location of the public hearing, the date and time of the public hearing, and the contact information for the Planner reviewing the application.

   d. The applicant shall submit a signed affidavit and dated, color photos of the sign or signs prior to the public hearing.

   e. A photo with a date stamp shall be emailed or mailed to the Zoning Administrator along with a signed and notarized affidavit of notification which affirms that the sign was posted within the fifteen (15) day requirement. Failure of the applicant to provide evidence of posting shall result in a postponement of the public hearing.

3. Mailed Notice: When notice is required to be mailed, the notice shall comply with the following requirements:

   a. Notice shall be mailed by the Town to all property owners within three hundred (300) feet of the subject property measured from the property lines. The notice shall contain the following information: description of the application, general location of the property subject to the application, location of the public hearing, date and time of the public hearing, contact information for the Planner reviewing the application, and a vicinity map of the property.

c. The Zoning Administrator shall have the responsibility to review and approve the text within the letters to be mailed to the property owners and then mail the letters.

d. The applicant shall submit three (3) sets of stamped and addressed envelopes to be used by the Town to mail the property owner notices for the Citizen Participation Meeting, Commission, and Council public hearings.

d. The applicant shall submit the letter to be mailed as notification to staff based on the format of the sample notification letter available within the Land Use Application packets.

F. Public Hearing: When a public hearing is required to be held, it shall comply with the following procedures unless different requirements are set forth in this Ordinance:

1. Testimony: Each person who testifies at a public hearing shall be identified, and, if appearing on behalf of a person or organization, state the name of the person or organization being represented. The Mayor or Chairman of the Commission may set time limits and/or require that individuals with shared concerns select one (1) or more spokespersons to present testimony on behalf of those individuals.

2. Order of Proceedings: The Order of the Proceedings at the public hearing shall be as follows:
   a. Staff Report
   b. Applicant Presentation
   c. Public Comment – Open Public Hearing
   d. Applicant Response
   e. Staff Response
   f. Close Public Hearing
   g. Deliberation and Action

G. Final Decisions: A final decision shall be deemed to have been made at the time action is taken by the Council and/or Board of Adjustment.

Section 14-24-2 **<u>Procedures – Adoption or Amendment to a Rezoning Ordinance</u>**

A. Initiation:
1. <u>Council</u>: The Council may direct the Commission to analyze, conduct a hearing, and make a recommendation to the Council for adoption of or amendment to a Rezoning Ordinance.

2. <u>Commission:</u> The Commission may initiate consideration of adoption of or amendment to a Rezoning Ordinance by directing the Planning Director to prepare a Rezoning Ordinance or Amendment to a Rezoning Ordinance and to schedule a public hearing on the proposed Amendment pursuant to the procedures set forth in this Article. Following the public hearing, the Commission may make a recommendation to the Council for action.

3. Owner: A property owner or an agent authorized in writing may apply for adoption of or amendment to a Rezoning Ordinance.

B. Applications: When an owner initiates the adoption of or amendment to a Rezoning Ordinance, the applicant shall comply with the requirements of Section 14-24-1.A. In addition, the application shall include the following information:
   1. Conceptual Site Plan.
   2. Conceptual Landscape Plan, including all open space areas, trails, pedestrian paths, and recreational facilities.
   3. Description of proposed use of the property.
   4. Traffic Impact Analysis (if deemed necessary by the Zoning Administrator).
   5. Legal Description.
   6. Alta Survey.

C. Citizen Review Process: A Citizen Review Process is required and shall comply with the requirements of Section 14-24-1.D.

D. Notice: Published notice, posted notice, and mailed notice shall be given in accordance with Section 14-24-1.E. In addition, notice shall be given to schools and other jurisdictions as follows:

   1. Notice shall be mailed to schools located one thousand (1,000) feet distance from the subject property within fifteen (15) days of the Planning Department receiving an application.
   2. Notice shall be mailed to the Maricopa County Planning Department for application related to land that abuts unincorporated areas of the County.
   3. Notice shall be mailed to a neighboring jurisdiction when adjacent to the subject property. Other jurisdictions may include Yavapai County, Arizona Department of Transportation, and Arizona State Land.

E. Public Hearing: The Commission shall hold a public hearing in accordance with Section 14-24-1.F. After the public hearing, the Commission shall render its decision in the form of a written recommendation to the Council. The recommendation shall include the reasons for the recommendation and be transmitted to the Council by copy of the minutes of the Commission meeting and a copy of the proposed Ordinance.

F. Council Action: The Council may adopt the recommendations of the Commission without holding a second public hearing if there is no objection, request for public hearing or other protest. The Council shall hold a public hearing if requested by an aggrieved party or any member of the public or the Council. The Council may approve, approve with modifications and/or conditions, or deny the application. Approval shall be by Ordinance. The Council may impose conditions for the dedication of rights-of-way and easements related to the effect of the Rezoning, establish a Schedule for Development, or impose other conditions permitted by law.

G. Legal Protests: If the owners of twenty (20) percent or more either of the area of the lots included in a proposed zoning change, or of those immediately adjacent in the rear or any side thereof extending one hundred fifty (150) feet therefrom, or of those directly opposite thereto extending one hundred fifty (150) feet from the street frontage of the opposite lots, file a protest in writing against the proposed amendment, it shall not become effective except by a majority favorable vote of three-fourths (3/4) of the members of the Town Council. The protest shall be filed in writing with the Town Clerk at least five (5) days prior to the public hearing or any continued public hearing. If any members of the Council are unable to vote on such a question because of a conflict of interest, then the required number of votes shall in no event be less than a majority of the full membership of the Town Council.

H. Re-Submittal of a Denied Application: In the event that an application for or amendment to a Rezoning Ordinance is denied by the Council or is withdrawn after the Commission hearing, the Commission shall not reconsider the application nor consider another application for the same amendment as it applies to the same property described in the original application or any part thereof, for a period of not less than one (1) year from the date of such denial or withdrawal action unless, in the opinion of the Commission, there is a change in circumstances that would warrant consideration of a new application for amendment.

Section 14-24-3 Procedures - Text Amendments

A. Initiation:
   1. Council: The Council may direct the Commission to analyze, conduct a public hearing, and make a recommendation to the Council for adoption of a Text Amendment to the Zoning Code.

   2. Commission: The Commission may initiate consideration of adoption of a Text Amendment by directing the Planning Director to prepare an Ordinance and to schedule a hearing on the proposed Ordinance pursuant to the procedures set forth in this Article. Following the public hearing, the Commission may make a recommendation to the Council for action.

   3. Owner: A property owner or an agent authorized in writing may apply for a Text Amendment.

B. Applications: When an owner initiates the adoption of a Text Amendment to the Zoning Ordinance, the applicant shall comply with the requirements of Section 14-24-1.A. In addition to those requirements, the application shall include a narrative outlining reasons for requested Text Amendment, a description of the community benefit if the amendment is approved, sample language of how the text should read, and a list of all Sections, Subsections and Headings in the Zoning Ordinance that would be affected.

C. Citizen Review Process: A Citizen Review Process is required if the proposed Text Amendment would impose any regulation not previously imposed or that remove or modify any such regulation previously imposed. The Citizen Review Process shall comply with the requirements of Section 14-24-1.D.

D. Notice: Published notice shall be given in accordance with Section 14-24-1.E.

E. Public Hearing: The Commission shall hold a public hearing in accordance with Section 14-24-1.F. After the public hearing, the Commission shall render its decision in the form of a written recommendation to the Council. The recommendation shall include the reasons for the recommendation and be transmitted to the Council by copy of the minutes of the Commission meeting and a copy of the proposed Text Amendment. Council may adopt the recommendations of the Commission without holding a second public hearing if there is no objection, request for public hearing or other protest. The Council shall hold a public hearing if requested by an aggrieved party or any member of the public or the Council.

Section 14-24-4 Procedures - Use Permits

A. Classes of Use Permits: Use Permits are issued for a Use Permitted in a zoning district based on a determination of compliance with standards set forth in the zoning district and the criteria in this Section. There are three (3) classes of Use Permits:

   1. Conditional Use Permit: A Use Permit approved by the Council.
   2. Administrative Use Permit: A Use Permit approved by the Zoning Administrator.
   3. Temporary Use Permit: A Use Permit approved for a limited period of time by the Zoning Administrator.

B. Initiation: A property owner or an agent authorized in writing may apply for a Use Permit.

C. Procedures:

   1. Conditional Use Permits:
      a. Application. An application for a Conditional Use Permit shall be filed with the Planning Department in accordance with the application procedures set forth in Section 14-24-1.A. In addition, the application shall include the following:

i. Site Plan.
ii. Description of Proposed Use of the Buildings, Structures and Property.
iii. Legal Description.
iv. Alta Survey.

b. Public Notice. Public notice shall be provided in accordance with the Public Notification Procedures set forth in Section 14-24-1.E. In addition, notice shall be given to schools and other jurisdictions as follows:

i. Notice shall be mailed to schools located one thousand (1000) feet or less from the subject property within fifteen (15) days of the Planning Department receiving an application.

ii. Notice shall be mailed to the Maricopa County Planning Department for application related to land that abuts unincorporated areas of the County.

iii. Notice shall be mailed to a neighboring jurisdiction when adjacent to the subject property. Other jurisdictions may include Yavapai County, Arizona Department of Transportation, and Arizona State Land Department.

iv. The validity of the proceedings shall not be affected by the failure of any person to receive such mailed notice.

c. Staff Report. The Planning Director shall prepare and transmit to the Commission a Staff Report, including an analysis and recommendation, setting forth any proposed findings and conditions upon which the Commission may base its decision.

d. Public Hearing. The Commission shall hold a public hearing in accordance with Section 14-24-1.F. After the public hearing, the Commission shall render its decision in the form of a written recommendation to the Council. The recommendation shall include the reasons for the recommendation and be transmitted to the Council by copy of the minutes of the Commission meeting and a copy of the proposed ordinance. The recommendation of the Commission may include reasonable requirements as deemed necessary to promote the purpose of this Section including but not limited to the following:

i. Yards and Open Spaces.
ii. Fences and Walls, or other screening.
iii. Surfacing of Parking Areas and specifications thereof.
iv. Street Improvements, including provision of service roads or alleys when practical and necessary.
v. Regulation of Points of Vehicular Ingress and Egress.
vi. Regulation of Signs.
vii. Landscaping and Maintenance thereof.
viii. Maintenance of Grounds.
ix. Control of Noise, Vibration, Odor and other potentially dangerous or objectionable elements.
x. A Time Limit within which the Proposed Use shall be Developed.
xi. A Performance Bond or Bonds may be required.

e. Council Action: The Council may adopt the recommendations of the Commission without holding a second public hearing if there is no objection, request for public hearing or other protest. The Council shall hold a public hearing if requested by an aggrieved party or any member of the public or

the Council. Council may, in its discretion approve, approve with modifications and/or conditions, or deny the application. The issuance of a Conditional Use Permit is solely in the discretion of the Council. No Conditional Use Permit shall be granted unless the Council finds:

i. The proposed use, as conditioned, will not be adversely affect the use and enjoyment of neighboring property and there is sufficient separation from incompatible land uses or zones.
ii. There is sufficient transition between less intensive uses and zones and the subject property.
iii. There will be sufficient off-street parking will be provided.
iv. The proposed use conforms requirements required by the Zoning Code and any other applicable local, State, or Federal requirements; and
v. The public health, safety, and general welfare of the community will not be adversely affected.

2. Administrative Use Permits:

a. Application. An application for an Administrative Use Permit shall be filed with the Planning Department in accordance with the application procedures set forth in Section 14-24-1.A. In addition, the application shall include the following:
   i. Site Plan.
   ii. Description of Proposed Use of the Buildings, Structures and Property.
   iii. Legal Description.

b. Public Notice. Public notice shall be mailed to the owners of property within three hundred feet (300') of the subject property within fifteen (15) days of the Planning Department receiving an application. The Planning Director may expand the notification area if he determines the potential impact of the application extends beyond three hundred (300) feet. The validity of the proceedings shall not be affected by the failure of any person to receive such mailed notice.

c. Option to Require Public Hearing. The Zoning Administrator may require a public hearing before the Commission for any Administrative Use Permit application that the Zoning Administrator determines to have special neighborhood or community significance. In such cases, the Commission shall review and act upon the application in the manner described in this Article for Conditional Use Permits.

d. Action: Except as provided for in Paragraph 2.c., the Zoning Administrator shall review the application for compliance with the Zoning Code. The Zoning Administrator shall approve, approve with modifications and/or conditions, or deny the application. The Zoning Administrator's decision shall be mailed to the applicant by first class mail within forty-five (45) days from the filing of the application. No administrative Use Permit shall be granted by the Zoning Administrator unless he finds:
   i. The proposed use, as conditioned, will not be adversely affect the use and enjoyment of neighboring property and there is sufficient separation from incompatible land uses or zones.
   ii. There is sufficient transition between less intensive uses and zones and the subject property.
   iii. There will be sufficient off-street parking will be provided.
   iv. The proposed use conforms with the requirements of the Zoning Code and any other applicable local, State, or Federal requirements; and
   v. The public health, safety, and general welfare of the community will not be adversely affected.

e. Appeal. Decisions of the Zoning Administrator on Administrative Use Permits may be appealed by an aggrieved person or a member of the Council to the Commission by filing a written appeal with the Commission within thirty (30) days of the decision of the Zoning Administrator. The Commission's decision shall be final. The Commission shall have the authority to uphold, modify, or overrule the decision of the Zoning Administrator. The Council may, however, certify for its review any action of the Commission regarding an Administrative Use Permit as provided for in Section 14-24-11.

3. Temporary Use Permits:

a. Duration of Temporary Use Permits.

i. Temporary Use Permits shall be approved for no more than sixty (60) days per year.

ii. A Temporary Use shall not be conducted between 10:00 p.m. to 7:00 a.m.

iii. Temporary Use Permits may be renewed a number of times dependant on the length of time of the initial approval as follows:
A. Temporary Uses approved for one (1) to five (5) days may be renewed up to four (4) times in any calendar year.
B. Temporary Uses approved for more than five (5) days up to thirty (30) days may be renewed up to two (2) times in any calendar year.
C. Temporary Uses approved for more than thirty (30) days but less than six (6) months may be renewed up to one (1) time in any calendar year.

b. Application. An application for a Temporary Use Permit shall be filed with the Planning Department in accordance with the application procedures set forth in Section 14-24-1.A. In addition, the application shall include the following:

i. Site Plan of property showing where the use will be located and distances from the edges of subject area and property lines.
ii. Narrative explaining proposed use.
iii. Number of Employees.
iv. Proposed Hours of Operation.
v. Requested Time for Permit.

c. Public Notice. At the discretion of the Planning Director, public notice shall be mailed to the owners of property within three hundred (300) feet of the subject property within fifteen (15) days of the Planning Department receiving an application. The Planning Director may expand the notification area if he determines the potential impact of the application extends beyond three hundred (300) feet. The validity of the proceedings shall not be affected by the failure of any person to receive such mailed notice.

d. Action: The Zoning Administrator shall review the application for compliance with the Town Code. The Zoning Administrator shall approve, approve with modifications and/or conditions, or deny the application. The Zoning Administrator's decision shall be mailed to the applicant by first class mail within thirty (30) days from the filing of the application. No Temporary Use Permit shall be granted by the Zoning Administrator unless he finds:

i. There will not be any negative impact surrounding properties, neighbors or Town residents in general that will not be or has not been mitigated by the applicant.

ii. Parking currently provided on the property is sufficient to handle the anticipated increase in traffic due to the additional use.

iii. The Fire Department has reviewed the location, type, and material of any tent or temporary structure and has responded that there is no anticipated public safety hazard with the proposed structure.

iv. The use will not interfere with ingress/egress onto the property, fire lanes, driveway and parking aisles, landscaping areas, or traffic visibility.

e. Appeal. Decisions of the Zoning Administrator on Administrative Use Permits may be appealed by an aggrieved person or a member of the Council to the Commission by filing a written appeal with the Commission within thirty (30) days of the decision of the Zoning Administrator. The Commission's decision shall be final. The Commission shall have the authority to uphold, modify, or overrule the decision of the Zoning Administrator. Council may, however, certify for its review any action of the Commission regarding an Administrative Use Permit as provided for in Section 14-24-11.

D. Expiration; Modification; Revocation

1. Expiration. A Use Permit shall automatically expire two (2) years from its effective date unless either of the following has occurred:
   a. Commencement of the use, or
   b. Commencement of construction pursuant to a valid Building Permit.

2. Modifications. No change is permitted in the use or structure for which a Use Permit has been issued except as follows:
   a. Administrative Use Permit. The Zoning Administrator may approve modifications to any Administrative Use Permit. Modifications are limited to reasonable changes to the Administrative Use Permit that do not substantially alter the approval or any condition of the Administrative Use Permit. The Zoning Administrator shall provide written records of the decision and supportive findings.

   b. Conditional Use Permits. Modifications to a Conditional Use Permit may be granted by the Council pursuant to the procedures for original approval.

E. Revocation. An Administrative Use Permit may be revoked by the Zoning Administrator and a Conditional Use Permit may be revoked by the Council following a public hearing if the use ceases for a period of ninety (90) consecutive days, or because of failure to comply with the conditions of the Use Permit. A Temporary Use Permit may be revoked by the Zoning Administrator if the use is not the approved Temporary Use.

1. Initiation of Revocation. Proceedings for the revocation of a Use Permit may be initiated by the Zoning Administrator. The Zoning Administrator shall prepare a written report to the Zoning Administrator or Council, as applicable, which contains the following information:

   a. The Use Permit to be revoked.
   b. The property to which the Permit applies.
   c. The reason or reasons for the proposed revocation.

2. Notice of Revocation Hearing.
   a. Notice of a revocation hearing shall be given by first class mail at least fifteen (15) days prior to the hearing as follows:

      i. To the property owner of record.
      ii. To the property address.
      iii. To the business address.

   b. Notice of the public hearing shall be published at least fifteen (15) days prior to the date of the hearing at least once in a newspaper of general circulation published or circulated within the Town.

   c. Notice shall be posted at least fifteen (15) days prior to the date of the hearing at three (3) public places within the Town.

3. Hearing. The revocation hearing shall be held in accordance with the procedures for public hearing set forth in Section 14-24-1.F.

4. Required Findings. In order to revoke the Use Permit, the Zoning Administrator or Council, as applicable body shall make one (1) or more of the following findings:

   a. One (1) or more of the terms of conditions of the Use Permit have been violated or there has been a violation of other applicable laws or regulations.
   b. The Use has ceased for at least ninety (90) consecutive days and the applicant has not demonstrated any circumstances justifying the cessation of use.

5. Action**.** Upon revocation of the Use Permit, the Zoning Administrator shall set forth the decision in writing describing the action, with its findings. The decision shall be mailed to the applicant by first class mail and to:

   a. To the property owner of record.
   b. To the property address.
   c. To the business address.

Section 14-24-5 **<u>Procedures –Variances</u>**

A. Initiation: A property owner or an agent authorized in writing may apply for a Variance where, due to circumstances related to the topography, a hardship, or special circumstance the property is undevelopable under strict interpretation of the Zoning Ordinance.

B. Applications: The applicant shall comply with the requirements of Section 14-24-1. In addition, the application shall include the following:

   1. Site Plan drawn to scale (maximum of 1 inch = 100 feet) which shows the proposed Variance distances to property lines and structures on the property.

   2. Information Showing:
      a. Why, due to special circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Ordinance would deprive the property owner of privileges enjoyed by other property owners of the same classification in the same zoning district.

      b. That the requested Variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located.

      c. That the special circumstances applicable to the property were or are not self-imposed by the property owner.

      d. Why granting the Variance:

         i. Substantially meets the intent and purpose of the zoning district in which the property is located.
         ii. Will not be detrimental to the health, safety, and general welfare of persons living or working in the neighborhood.
         iii. Will not be detrimental to the general welfare of the Town.
         iv. Is the least amount of relief necessary to permit use of the property similar to other properties in the district.

C. Notice: Published notice, posted notice, and mailed notice shall be given in accordance with Section 14-24-1.E.

D. Public Hearing: The Board of Adjustment shall hold a public hearing in accordance with Section 14-24-1.F.

E. Board of Adjustment Action: The Board of Adjustment shall render a written decision within ten (10) days of the date the hearing is closed. The Board of Adjustment may approve, approve with modifications and/or conditions, or deny applications for variances. The Board of Adjustment shall not approve a Variance unless all of the following criteria are satisfied:

1. There are special circumstances applicable to the property such that the strict application of the Zoning Ordinance would deprive the property owner of privileges enjoyed by other property owners of the same classification in the same zoning district.
2. The Variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located.
3. The special circumstances applicable to the property were or are not self-imposed by the property owner.
4. The Variance (i) substantially meets the purpose of the zoning district in which the property is located, (ii) will not be detrimental to the health, safety, and general welfare of persons living or working in the neighborhood, (iii) will not be detrimental to the general welfare of the Town; and (iv) is the least amount of relief necessary to permit use of the property similar to other properties in the district.

F. Appeals: Appeals of Board of Adjustment decisions shall be filed with the Superior Court of the County in which the property is located. An Appeal stays all proceedings in the matter Appealed from, unless the Zoning Administrator certifies to the Board that by reason of facts stated in the Certificate, a Stay would cause imminent peril to life or property. Upon such Certification, proceedings shall not be Stayed other than by a Restraining Order granted by the Superior Court.

Section 14-24-6 Procedures – Requests for Interpretation of the Zoning Ordinance

A. Initiation: A member of the Planning staff or a property owner may request an interpretation of the provisions of the Zoning Ordinance.

B. Request for Interpretation: A request for an interpretation of the Zoning Ordinance shall be submitted in writing to the Zoning Administrator.

C. Zoning Administrator Decision: The Zoning Administrator shall provide his decision in writing to the applicant.

D. Appeals: Appeals of the decision of the Zoning Administrator shall be made to the Board of Adjustment. Such Appeal shall be in writing and filed with the Zoning Administrator within ten (10) days of the date of the decision by the Zoning Administrator. Upon receipt of an Appeal, the Zoning Administrator shall forward the request for interpretation and his written decision to the Board of Adjustment. The notice of the Appeal shall be published pursuant to Section 14-24-1.E. A public hearing shall be held pursuant to Section 14-24-1.F.

E. Record of Interpretation. The Zoning Administrator shall keep a record of interpretations made pursuant to this Section. The record of interpretations shall be available to the public.

Section 14-24-7 Procedures – Annexations

Annexation of territory into the Town shall be in accordance with Arizona Revised Statutes §9-471 and Town Policies adopted by the Town Council as set forth below:

A. Initiation:
   1. Council: Council may direct staff to review specific property to determine whether it may be legally annexed and to contact property owners to determine whether they will sign an Annexation Petition.

2. Owner: One (1) or more property owners may submit an application to annex property owned by them into the Town. Upon certification by the Planning Director that the property is eligible for annexation, the property owner may request the Town to provide one (1) or more of the following services without cost or monetary obligation to the applicant. Such services may be furnished, at the option of the Town, and are as follows:

   a. Preparation of all maps and petitions required to complete the annexation.
   b. Personnel costs and attendant fees incurred by the Town to utilize Town employees or other methods to circulate the petition on behalf of the applicant.
   c. Processing applications for a change in the zoning classification, which may include Planned Area Developments on the property being annexed, provided that the request for the Zone Change is applied for simultaneously with the request for annexation and has been completed within two (2) years after the date of application.

B. Application: An application shall be filed in accordance with this Section and in accordance with the application procedures set forth in Section 14-24-1.A. The applicant may include as part of the annexation a request that the Town provide one (1) or more of the following services without cost or monetary obligation to the applicant:

   1. The preparation of all maps and petitions required to accomplish the requested annexation.
   2. Personnel costs and attendant fees incurred by the Town to utilize Town employees or other methods to circulate the petition on behalf of the applicant.
   3. Processing applications for a change in the zoning classification, which may include Planned Area Developments on the property being annexed in accordance with State and local statutes, provided that the request for the Zone Change is applied for simultaneously with the request for annexation and has been completed within two (2) years after the date of application.

C. Staff Review: Staff shall review the proposed annexation to determine whether the property to be annexed meets the contiguity requirements of A.R.S. §9-471(H) or whether the proposed annexation is exempt from such requirements because it is within the strip-annexed area of the Town and touches an incorporated area of the Town. No proposed annexation shall be processed unless it either meets the contiguity requirements or is exempt from such requirements.

D. Blank Petition: Except for annexations of County rights-of-way or roadways with no taxable real property, staff shall file a Blank Petition in the Office of the Recorder in the County in which the property is located setting forth a legal description and an accurate map of all the exterior boundaries of the property proposed to be annexed. The map shall include all County rights-of-way and roadways with no taxable value that are within or contiguous to the exterior boundaries of the area of the proposed annexation. The legal description shall be sealed by a registered Surveyor or Engineer. Signatures shall not be obtained on an Annexation Petition until the expiration of a thirty (30) day waiting period following the date of filing the Blank Petition.

E. Notice to County: Notice and a copy of the filing of the Blank Petition shall be given to the Clerk of the Board of Supervisors and to the Assessor in which County the property is located.

F. Content of Notice of Public Hearing: Notice of a public hearing required to be held pursuant to Section 14-24-1.E. shall be given by the Town in accordance with this Section. The notice shall include the following information:

   1. A map showing the area proposed to be annexed.
   2. The date, time, location and purpose of the public hearing.
   3. A statement that any interested person or any authorized agent may appear and be heard.
   4. A statement describing how to submit written comments.

G. Notice of Public Hearing: The notice shall be given at least six (6) days prior to the hearing in the following manner:

1. The notice shall be published by the Town at least once in a newspaper of general circulation within the Town at least fifteen (15) days before the end of the thirty (30) day waiting period.

2. Posting by the applicant in at least three (3) conspicuous public places on the property proposed to be annexed.
   a. Posting, maintenance and removal of signs are the responsibility of the applicant. Failure to remove the sign within ten (10) days of public hearing action shall result in Town removal of the sign and a charge to the applicant for costs incurred.
   b. Size, color, content, and location of public hearing sign shall be designated by Council Resolution for posting of public hearing notices.
   c. The applicant shall submit a signed affidavit and dated, color photos of sign or signs prior to the public hearing.
   d. Failure of the applicant to provide evidence of posting shall result in a postponement of the public hearing.

3. Notice by first class mail sent by the Town to the Chairman of the Board of Supervisors of the County in which the property is located.

4. Notice by first class mail with an accurate map of the property proposed to be annexed sent by the Town to each owner of the real and personal property that would be subject to taxation by the Town in the event of annexation in the territory proposed to be annexed.

H. Public Hearing: A public hearing shall be held by the Council within the last ten (10) days of the thirty (30) day waiting period described in Section 14-24-7.D, to provide opportunity for public comment and to discuss the proposed annexation.

I. Signatures and Filing with County Recorder: After the expiration of thirty (30) days from the date the Blank Petition was filed in accordance with Section 14-24-7.D., signatures may be obtained on an Annexation Petition. The Petition shall contain the signatures of the owners of one-half (1/2) or more in value of the real and personal property and more than one-half (1/2) of the persons owning real and personal property that would be subject to taxation by the Town in the event of annexation, as shown by the last assessment of the property, may be circulated. No alterations increasing or reducing the property proposed to be annexed shall be made after a Petition has been signed by a property owner.

J. Filing of Signed Petition and Expiration: A signed Petition for Annexation shall be filed with the Planning Development within one (1) year after the last day of the thirty (30) day waiting period described in Subsection 14-24-7.D. or the Blank Petition will expire. A new application shall be submitted if the property owner desires to annex the property after that deadline. At the time of filing, the Petition for Annexation, the Petitioner shall submit a sworn affidavit verifying that no part of the property proposed to be annexed is already subject to an earlier filing for annexation.

K. Staff Review of Petitions: Upon receipt of a signed Petition for Annexation, staff shall review the Petition for sufficiency of signatures and conformance with other applicable requirements. Staff shall verify that the Petition contains the signatures of the owners of one-half (1/2) or more in value of the real and personal property and more than one-half (1/2) of the persons owning real and personal property that would be subject to taxation by the Town in the event of annexation, as shown by the last assessment of the property.

1. For the purpose of determining the sufficiency of the percentage of the value of property, such values of property shall be determined as follows:

a. In the case of property assessed by the County Assessor, values shall be the same as shown by the last assessment of the property; and
b. In the case of property valued by the Department of Revenue, values shall be appraised by the Department in the manner provided by law for municipal assessment purposes.

2. For the purpose of determining the sufficiency of the percentage of persons owning property, the number of persons owning property shall be determined as follows:

a. In the case of property assessed by the County Assessor, the number of persons owning property shall be as shown on the last assessment of the property;
b. In the case of property valued by the Department of Revenue, the number of persons owning property shall be as shown on the last valuation of the property;
c. If an undivided parcel of property is owned by multiple owners, such owners shall be deemed as one (1) owner and each may sign as a fractional interest; and
d. If a person owns multiple parcels of property, such owner shall be deemed as one (1) owner for the purposes of this Section.

L. Filing Petition and Affidavit with County Recorder: After determination of sufficiency of signatures on the Petition, the Annexation Petition shall be filed in the Office of the Recorder in the County in which the property is located. The Petitioner shall also submit a sworn affidavit verifying that no part of the territory is already subject to an earlier filing.

M. Staff Report: The Planning Director shall prepare and transmit to the Council a Staff Report with a proposed Annexation Ordinance. A copy of the Staff Report and proposed Annexation Ordinance shall be made available to the public and the applicant prior to the date of the meeting at which the Council will consider adopting the Ordinance.

N. Council Action: After the filing of the signed Annexation Petition(s), Council may adopt the proposed Annexation Ordinance.

O. Annexation Complete: The annexation is final thirty (30) days from the date of adoption of the Annexation Ordinance annexing the property, subject to the review of the Superior Court in the County in which the property is located pursuant to A.R.S. §9-471(C). When the annexation is final, the Town Clerk shall record the Annexation Ordinance.

P. Annexation of County Right-of-Way: County rights-of-way or roadways not part of a larger annexation and with no taxable real property may be annexed by mutual consent of the Council and the Board of Supervisors in the County in which the property is located if the right-of-way or roadway is adjacent to the Town for its entire length. The proposed annexation shall be approved by Ordinance as part of a published agenda item at regular public meetings of the Council and the Board of Supervisors.

Q. Annexation Checklist: Except for annexations of County rights-of-way and roadways, upon adoption of the Annexation Ordinance, a completed Annexation Checklist in a form approved by the Town Attorney shall be permanently maintained in the Annexation File.

R. Right to Refuse to Annex Territory: Nothing in this Section shall require the Council to annex any territory into the Town.

S. Road Dedication Requirements: Dedication of private roads in newly annexed territory will be accepted into the Town's streets and roads system in compliance with Section 8-3-9 of this Code.

T. Inclusion in Capital Improvement Program: Subject to approval by the Council, upon annexation all existing development within the area so annexed will be included in the Town's current Capital Improvement Program and those street improvements along with sewer and water line extensions normally provided by the Town will be scheduled for construction.

Section 14-24-8 Procedures – Adoption of General Plan or Amendments to General Plan

A. General Plan Amendment:

1. Criteria For Determining Major Amendment

a. Major Amendment to the General Plan. A major amendment to the General Plan is any amendment that would result in a change of such significance as to impact substantial portions of the entire Town and/or its Planning Area. The criteria for determining whether or not a proposed General Plan amendment is a major amendment are:

i. A change in the Land Use Map designation on forty (40) or more acres within the Town's municipal boundaries or on eighty (80) or more acres elsewhere in the Municipal Planning Area that would allow an increase of more than one hundred (100) dwelling units on the entire site; or

ii. An increase or decrease of at least twenty (20) in the number of permitted dwelling units that constitutes a change in density of fifty percent (50%) or more, measured in units per acre; or

iii. An increase or decrease of twenty (20) acres or more for commercial or industrial (e.g., industrial, office, retail, resort) types of uses and planned construction of one hundred thousand (100,000) square feet gross leasable area or more on any parcel size; or

iv. Any proposed Land Use Map change, other than residential, that will result in a demand of more than thirty thousand (30,000) gallons of water per day from the Town water supply; or

v. Any proposed Land Use Map change that projects a ten percent (10%) or greater increase (at least one thousand [1000] ADT) in the number of average daily vehicular trips generated on the site; or

vi. An increase of twenty (20) acres or more or a decrease of ten (10) acres or more for Open Space Uses except as an amendment to an approved Master Plan; or

vii. Any change to uses specified in an approved, Mixed Use Master Plan that affects an area of not less than forty (40) acres and/or that changes the number of dwelling units by twenty-five percent (25%) or more; or

viii. Any Master Plan of Development that exceeds any of the above criteria over the proposed build-out of the Master Planned Site notwithstanding the lesser impact of its initial construction phase(s).

Exception: An amendment to the Land Use Map initiated by the property owner that results in a decrease in land use intensity or that is processed in conjunction with an Annexation Petition/Development Agreement that provides for urban wet utilities will not be subject to Major Amendment Application. The Town shall undertake appropriate revision of the Land Use Plan to reflect such changes at the next Map updating following approval of such amendment.

2. Criteria For Minor Amendment

   a. Minor Amendment to the General Plan- minor text changes; map adjustments that neither impact the Land Use Plans balance nor meet/exceed the acreage or density measures set forth in the definition of Major Amendments.

3. Amendment Applications

Any applicant for an Amendment to the General Plan is strongly encouraged to confer with the Town Planning staff regarding specific application requirements and scheduling. Applications for Amendments shall be filed with the Planning Department. Minor General Plan Amendments may be set for hearing in the schedule for regular Commission and Council meetings. All applications for Major General Plan Amendments shall be heard at one (1) public hearing per year. (See: Major Amendment Scheduling, page iii – 6 of the General Plan.) The following materials and/or documentation is required to accompany each Amendment request, as well as such additional information the Town may require as pertinent to the specific request:

   a. Written and signed Letter of Application, generally describing the requested Amendment.

   b. Owner's written authorization for Plan Amendment Request.

   c. Graphic illustration of the proposed Land Use Map Amendment.

   d. Property ownership map, ownership list, and appropriate notification letters in addressed and stamped envelopes for all property within the amended area, and within three hundred feet (300') of the subject site.

   e. Written justification for the request, in terms of development patterns or trends, timing of Land Use Proposal, comparisons to existing Land Use Map Designation or text content, and public benefit from proposed Amendment.

   f. Written Analysis for the request, including but not limited to:

      i. Detailed description of proposed change as being in accord with General Plan principles.
      ii. Impact on public infrastructure (e.g., water/wastewater system capacity, parks, schools, drainage, utilities, streets)

These application requirements may be waived, modified, or expanded at the discretion of the Commission and Council. Requests for Text Amendments will require submittal of a written request, description, proposed rewording of applicable Sections in strike-and-add format, and brief justification and analysis related to the specific language in question.

An application for rezoning may be filed simultaneously with an application for a General Plan amendment. Each of these applications will be subject to independent analysis and will require separate consideration and action by the Commission and Council.

4. Citizen Review Process
   A Citizen Review Process is required and shall comply with the requirements of Section 14-24-1.d.5.

5. Notice
   Published notice, posted notice, and mailed notice shall be given in accordance with Section 14-24-1.e. and in addition, notice shall be given to schools and other jurisdictions as follows:

A. For major amendments and new elements of a General Plan, at least sixty (60) days before the notice of the public hearing of the Planning Commission, the major amendment or element shall be transmitted to the Commission and the Town Council and submitted to:

1) The Planning Agency of Maricopa County and Yavapai County.

2) Each municipality that is contiguous to the corporate limits of Wickenburg.

3) The Maricopa Association of Governments and the Northern Arizona Association of Government.

4) The State agency designated as the General Planning agency for this State.

5) The Department of Water Resources for review and comment on an amendment to the Water Resources Element.

6) Any person or entity that requests in writing to receive a review copy of the proposal.

6. Citizen Review Process

A Citizen Review Process is required and shall comply with the requirements of Section 14-24-1.d.

7. The Planning And Zoning Advisory Commission

After the Planning and Zoning Advisory Commission considers any recommendations from the Citizens Participation Meeting, they shall hold at least one (1) public hearing before approving a major amendment or element. Notice of the time and place of a hearing and availability of studies and summaries related to the public hearing shall be given at least fifteen (15) and not more than thirty (30) calendar days before the hearing by:

A. Publication at least once in a newspaper of general circulation published or circulated in the Town.
B. Such other manner in addition to publication as the Community Development & Neighborhood Services Director may deem necessary or desirable.

8. Public Hearing Before Adoption By Town Council

Before adopting a minor or major amendment or element, the Town Council shall hold at least one (1) public hearing. Notice of the time and place of the hearing shall be given at least fifteen (15) and not more than thirty (30) calendar days before the hearing by:

A. Publication at least once in a newspaper of general circulation published or circulated in the Town.
B. Such other manner in addition to publication as the Community Development & Neighborhood Services Director may deem necessary or desirable.

9. Major Amendments

All major amendments shall be presented at a single public hearing during the calendar year the application is submitted. A two-thirds (2/3) vote by the Town Council is required for approval of a major amendment.

A. General Plan Adoption: At least sixty (60) days before the notice of the Planning and Zoning Advisory Commission public hearing, a copy of the proposed General Plan shall be transmitted to the Commission and the Town Council and submitted to:
   1) The planning agency of Maricopa County and Yavapai County.
   2) Each county or municipality that is contiguous to the corporate limits of Wickenburg.
   3) The Maricopa Association of Governments and the Northern Arizona Association of Government.
   4) The state agency designated as the General Planning Agency for this State.
   5) The Department of Water Resources for review and comment on the Water Resources Element.
   6) Any person or entity that requests in writing to receive a review copy of the proposed General Plan.

B. Citizen Review Process: A Citizen Review Process is required and shall comply with the requirements of Section 14-24-1.d.

C. The Planning and Zoning Advisory Commission, after considering any recommendations from the Citizens Review Process, shall hold at least one (1) public hearing before approving a General Plan. Notice of the time and place of a hearing and availability of studies and summaries related to the hearing shall be given at least fifteen (15) and not more than thirty (30) calendar days before the hearing by:

   1) Publication at least once in a newspaper of general circulation published or circulated in the Town.
   2) Such other manner in addition to publication as the Community Development & Neighborhood Services Director may deem necessary or desirable.

D. Before adopting the General Plan, the Town Council shall hold at least one (1) public hearing. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the Planning and Zoning Advisory Commission.

E. The adoption or re-adoption of the General Plan shall be approved by affirmative vote of at least two-thirds (2/3) of the members of the Council.

F. If required by A.R.S. §9-461.06(m), the General Plan shall be submitted to the voters for ratification at the next regularly scheduled Town election or at a special election. The publicity pamphlet shall include a general description of the proposed General Plan and its elements. Copies shall be available in at least two (2) locations that are easily accessible to the public. If a majority of the qualified electors voting on the General Plan approves it, the General Plan shall become effective as provided by law. If a majority of the qualified electors voting on the General Plan fails to approve the new plan, the current plan remains in effect until a new plan is approved by the voters.

Section 14-24-9 Procedures –Claims for Diminution in Value Pursuant To A.R.S. §12-1134

A. Filing of Claim: Any claim for Diminution in Property Value pursuant to A.R.S. §12-1134 shall be filed with the Town Clerk on a form prescribed by the Town.

B. Town Review: After a claim is filed, Town staff shall review the claim to determine whether the enactment or application of a Land Use Law has diminished the value of the claimant's property. A Certified Land Appraiser, economist, or other qualified expert may be consulted by staff to determine the amount of the diminishment of value, if any.

C. Staff Recommendation: The Town Manager shall prepare a recommendation to Council to deny the claim, pay compensation for Diminishment in Value or rescind or modify the Land Use Regulation.

D. Council Determination: Within ninety (90) days of the filing of the claim, the Council shall make a determination whether to deny the claim or pay compensation, rescind or modify the Land Use Law or its application to the claimant's property. The Council's determination shall be made in writing and a copy shall be provided to the claimant. Any rescission or modification of the application of a Land Use Law to an individual property shall be recorded in the office of the County Recorder in which County the property is located.

E. Satisfaction of Notice of Claims Requirements: Filing a claim pursuant to this Section shall be deemed to satisfy the requirements set forth in A.R.S. §12-821.01 for filing an Administrative Claim against the Town.

Section 14-24-10 Protected Development Right Plan

A. Purpose and Applicability:

The purpose of this Section is to provide procedures consistent with applicable State Law by which a Plan may be designated as a Protected Development Right Plan. Except as provided in Subsection C.3, only a Plan submitted to the Town that is designated as a Protected Development Right Plan at the time of submittal shall be processed as a Protected Development Right Plan. A Protected Development Right is the right to undertake and complete the development and use of property under the terms and conditions of a Protected Development Right Plan without compliance with subsequent changes in Zoning Regulations and Development Standards, and precludes the enforcement against the development of any Legislative or Administrative Land Use Regulation of the Town or an initiated measure that would change, alter, impair, prevent, diminish, delay or otherwise impact the development or use of the property as set forth in the approved Protected Development Right Plan. Upon approval of a Protected Development Right Plan, the owner has a Protected Development Right to undertake and complete the development only to the extent of the specific elements and details shown on the Plan without compliance with subsequent changes in Zoning Regulations and Development Standards. This Section sets forth the procedures for two (2) classifications of Protected Development Right Plans: Non-Phased Developments and Phased Developments.

B. Procedures:

1. Application: Applications shall be filed in accordance with Application Procedures set forth in Section 14-24-1 and additional application requirements set forth in this Article. Applications may be filed for Non-Phased Development Right Plan, or Phased Development Right Plan.

   a. Non-Phased Developments. Non-Phased Developments are developments that are constructed in one (1) phase. Applications for Protected Development Right Plan for Non-Phased Developments shall comply with the application requirements for Final Subdivision Plat approval as set forth in the Subdivision Regulations.

   b. Phased Developments. An application for a Protected Development Right Plan for Phased Developments shall comply with the application requirements set forth in this Section and Section 14-22 Planned Area Development Overlay Zoning District. The application shall identify all improvements required to be constructed for each phase.

2. Application Content:

a. All applications for a Protected Development Right Plan shall include all of the following:

i. The proposed uses of the property.

ii. The boundaries of the property.

iii. Significant topographical and other natural features affecting development of the property

iv. The location of all existing and proposed utilities and provisions for other infrastructure on the property, including water, sewers, road and pedestrian walkways.

v. All other studies and reports required by the Zoning Code, the Subdivision Regulations and other Codes of the Town, including Traffic Reports, Drainage Reports, Master Street Plans, Development Phasing Schedules and Phased Public Infrastructure Schedules.

b. Non-Phased Developments: In addition to the requirements of Subsection B.2.A, an application for a Protected Development Right Plan for a Non-Phased Development shall be submitted either as a Final Subdivision Plat Application or as a Planned Area Development Overlay District Application and shall:

i. Designate the Plan as a Non-Phased Protected Development Right Plan at the time of submittal.

ii. Include the general location on the property of the proposed buildings, structures and other improvements.

iii. Include the number of dwelling units and the square footage and height of the proposed buildings and other structures.

c. Phased Developments: In addition to the requirements of Subsection B.2.A, an application for a Protected Development Right Plan for a Phased Development shall:

i. Designate the Plan as a Phased Protected Development Right Plan at the time of submittal.

ii. Be submitted as a Planned Area Development Overlay Zoning District.

iii. Include the proposed Phasing Plan, the boundaries of each phase, and the Schedule of Development of each phase.

iv. Include the general location on the property of the proposed buildings, structures and other improvements for the first phase.

v. Include the number of dwelling units proposed for all phases of the development.

vi. Include the square footage and height of the proposed buildings and other structures for the first phase.

C. General Provisions:

1. Final Subdivision Plat Protected Development Right Plan: The Protected Development Right Plan for a Non-Phased Development shall be the Final Subdivision Plat approved by the Council.

2. Planned Area Development Protected Development Right Plan: The Protected Development Right Plan for a Phased Development shall be the Planned Area Development Overlay Zoning District approved by the Council for that phase. Approval of a Protected Development Right Plan for one (1) phase of a Phased Development is not approval of a Protected Development Right Plan for any other phase.

3. Subsequent Designation: The Council may designate by ordinance or resolution a Development Plan that is not identified as a Protected Development Right Plan at the time it is submitted, as a Protected Development Right Plan upon a finding that granting a Protected Development Right to undertake and complete the development shown on the Plan will promote reasonable certainty, stability and fairness in the Land Use Planning and Regulatory Process and secure the reasonable investment-backed expectations of the owner.

4. Variances: A Protected Development Right Plan approved with a condition that a Variance be obtained does not confer a Protected Development Right until the Variance is granted. Approval of a Protected Development Right Plan does not guarantee approval of a Variance.

5. Enforcement of Subsequent Land Use Regulations. A Protected Development Right does not preclude enforcement of Land Use Regulations that would change, alter, impair, prevent, diminish, delay or impact the development or use of the property as approved in the Protected Development Right Plan under any of the following circumstances:

    a. Changes agreed to in writing by the owner.
    b. Declaration by the Council by resolution after notice and a public hearing, that natural or man-made hazard(s) on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as approved in the Protected Development Right Plan.
    c. Declaration by the Council by resolution after notice and a public hearing that the owner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval of the Protected Development Right Plan by the Town.
    d. The enactment of a State or Federal law or regulation that precludes development as approved in the Protected Development Right Plan, in which case the Council, after notice and a public hearing, may modify the affected provisions, on a finding that the change in State or Federal law has a fundamental effect on the Protected Development Right Plan.

6. Overlay Zoning, Development Fees, and Building Codes: A Protected Development Right does not preclude the enforcement of a subsequently adopted:
    a. Overlay zoning classification that imposes additional requirements and that does not affect the allowable type or density of use, or ordinances or regulations that are general in nature and that are applicable to all property, so long as the overlay zoning classification does not affect the allowable type or density of use.
    b. Development fees applicable to similar properties in the Town adopted pursuant to A.R.S. §9-463.05.
    c. Building, Fire, Plumbing, Electrical, or Mechanical Code or other ordinance or regulation general in nature and applicable to all property subject to Land Use Regulation by the Town.

7. Non-Conforming Uses and Structures: A Protected Development Right does not preclude, change, or impair the authority of the Town to adopt and enforce Zoning Ordinance provisions governing Non-Conforming Uses or structures on the property.

8. Development Agreements: Nothing in this Article shall preclude, change, or limit the authority of the Town to enter into a Development Agreement pursuant to A.R.S. §9-500.05.

D. Expiration Date and Extensions; Revocation:

1. <u>Expiration</u>:

a. Non-Phased Development Right Plan: A Protected Development Right Plan for a Non-Phased Development is valid for three (3) years. In its sole discretion, the Council may extend this time period for a maximum of two (2) additional years if it determines such extension is warranted by all relevant circumstances, including the size and type of the development, the level of investment of the landowner, economic cycles, and market conditions. If no Building Permit has been issued prior to expiration, no construction shall commence under the Plan.

b. Phased Development Right Plan: A Protected Development Right Plan for a Phased Development is valid for five (5) years. In its sole discretion, the Council may extend this time period for a maximum of two (2) additional years if it determines such extension is warranted by all relevant circumstances, including the size, type and phasing of the development, the level of investment of the landowner, economic cycles, and market conditions. No construction shall take place on the property for any phase for which a Building Permit has not been issued.

2. Compliance: After the approval of a Protected Development Right Plan, the Planning Director shall monitor the progress of the development to ensure compliance with the terms and conditions of the original approval or any Development Agreement applicable to the property. If the development is not progressing in compliance with the original approval or any Development Agreement applicable to the property, the Director of Planning shall prepare a report and recommendation to the Council. The report and recommendation shall contain the following:

a. The Protected Development Right Plan to be revoked.
b. The property to which the right applies.
c. The reason or reasons for the proposed recommendation.

3. Revocation: A Protected Development Right Plan may be revoked by the Town because of failure to comply with the applicable terms and conditions of the Protected Development Right Plan or Development Agreement.

a. Initiation of Revocation: The report and recommendation of the Director shall be submitted to the Council. The Planning Director shall set a date for a public hearing on the proposed revocation.

b. Notice of Public Hearing on Revocation:
   i. Notice of the public hearing shall be given by first class mail at least fifteen (15) days prior to the hearing as follows:
      (a) To the property owner of record.
      (b) To the property address.
      (c) To the business address.

   ii. Notice of the public hearing shall be published at least fifteen (15) days prior to the date of the hearing at least once in a newspaper of general circulation published or circulated within the Town.

   iii. Notice of the public hearing shall be posted at least fifteen (15) days prior to the date of the hearing at three (3) public places within the Town designated by Council resolution for posting of public notices.

c. Public Hearing: The public hearing shall be held in accordance with the procedures for public hearing set forth in Section 14-24-1.E.

d. Required Findings: In order to revoke the Protected Development Right Plan, the Council shall find that one (1) or more of the terms of conditions of the Protected Development Right Plan have been violated or there has been a violation of other applicable laws or regulations.

e. Action: Upon revocation of the Protected Development Right Plan, the Planning Director shall set forth the written decision describing the Council's decision, with its findings. The written decision shall be mailed to the applicant by first class mail and to:

i. To the property owner of record.
ii. To the property address.
iii. To the business address.

4. No Vested Rights: Where a Protected Development Right Plan has been created, development of property without complying with the Protected Development Right Plan is not a legal use of that property. Therefore, there shall be no vested right to use property in accordance with a Protected Development Right Plan where the Protected Development Right Plan has been revoked.

Section 14-24-11 Appeals of Dedications, Exactions and Zoning Regulations; Reconsideration of Certain Decisions

A. Purpose and Applicability: This Article sets forth procedures for:

1. Appeals of Dedication Requirements, Exactions or Zoning Regulations pursuant to Subsection B.
2. Reconsideration of Council actions related to certain Federal and State Statutes, pursuant to Subsection C.

B. Appeals of required Dedications and Exactions and of Zoning Regulations pursuant to A.R.S. § 9-500.12 and 9-500.13.

1. Appeals: Appeals of a required Dedication or Exaction filed pursuant to A.R.S. §9-500.12 and of a Zoning Regulation alleged to create a taking pursuant to A.R.S. §9-500.13 shall comply with the procedures of this Section and A.R.S. §9-500.12.g.

a. Fee: No fee shall be charged for the Appeal.
b. Filing of Appeal: Appeals shall only be filed by a property owner. Appeals shall be filed on a form established by the Planning Director within thirty (30) days of the date of the final action imposing the Dedication or Exaction or adopting or amending the Zoning Regulations. The Town shall notify the property owner of the right to Appeal pursuant to this Section and provide a description of the Appeal Procedure to the property owner.
c. Hearing Officer: The Hearing Officer shall be the Zoning Administrator. If the Zoning Administrator has participated in the imposition of the Dedication or Exaction Requirement, the Town Manager shall appoint another Hearing Officer.

2. Notice of Hearing: The property owner shall be given at least ten (10) days written notice of the time and place of the hearing by certified mail. The property owner may agree to a shorter time for such notice.

3. Hearing: The hearing shall not be a public hearing. Prior to the hearing, the Town shall submit a Takings Report to the Zoning Hearing Officer. The hearing shall be held not later than thirty (30) days after the Appeal is filed.

4. Appeals Filed Pursuant to A.R.S. §9-500.12: An Appeal of a required Dedication or Exaction as a Condition of Approval for the use, improvement, or development of real property shall comply with this Subsection B. No Appeal of a Dedication or Exaction may be filed under this Subsection if the Dedication or Exaction is imposed by a Legislative Act of the Council that does not give discretion to a Town Official or Town Department to determine the nature or extent of the Dedication or Exaction.

a. Findings: In determining whether a Dedication or Exaction is in violation of the law, the Town has the burden to establish that:

i. There is an essential nexus between the Dedication or Exaction and a legitimate governmental interest of the Town; and
ii. The required Dedication or Exaction is roughly proportional to the impact of the proposed use.

b. Decision: If the Zoning Hearing Officer finds that the Town has not met its burden as described in Subsection 4.A., the Zoning Hearing Officer may modify or delete the Dedication or Exaction requirement. If the Zoning Hearing Officer finds that the Town has met its burden, the Zoning Hearing Officer may affirm the Dedication or Exaction requirement. The Zoning Hearing Officer shall decide the Appeal within five (5) working days after the Appeal is heard.

5. Appeals Filed Pursuant to A.R.S. §9-500.13: An Appeal of the adoption or amendment of a Zoning Regulation by the Council alleged to create a taking shall comply with this Section.

a. Findings: In determining whether an adopted or amended Zoning Regulation creates a taking of property in violation of A.R.S. §9-500.13, the Town has the burden to establish that the Zoning Regulation does not create a taking. The Zoning Hearing Officer shall consider whether the Zoning Regulation would deny all economic use of the property. In determining whether the action would deny the owner all economic use of the property, the Zoning Hearing Officer shall consider the following factors:

i. Uses Permitted: Evaluation of the range of uses allowed under the General Plan and the Zoning Code.

ii. Economic Impact Study: Any Economic Impact Study submitted related to the impact of the conditions of an amendment on the property.

b. Decision: If the Zoning Hearing Officer finds that the Town has not met its burden as described in Subsection 5.A., the Zoning Hearing Officer shall transmit a recommendation to the Council and the Council may reconsider its prior action. If the Zoning Hearing Officer finds that the Town has met its burden, the Zoning Hearing Officer may affirm the Zoning Regulation. The Zoning Hearing Officer shall decide the Appeal within five (5) working days after the Appeal is heard.

6. Appeal of Decision of Zoning Hearing Officer: A property owner aggrieved by a decision of the Zoning Hearing Officer to modify or affirm a Dedication or Exaction requirement or to affirm a Zoning Regulation may file within thirty (30) days after the decision a complaint in Superior Court of the County of jurisdiction, pursuant to A.R.S. §9-500.12.g.

C. Reconsideration of Certain Council Decisions:

1. Request for Reconsideration: An applicant may request a Reconsideration of a Council decision on any of the following grounds:

a. An alleged violation of the Fair Housing Act.
b. An alleged violation of the Americans with Disabilities Act or the Arizonans with Disabilities Act.
c. An alleged violation of the Religious Land Use and Institutionalized Persons Act or the Arizona Free Exercise of Religion Act.
d. An alleged violation of the Telecommunications Act.

2. Reconsideration Procedure:
a. Time of Filing: The request for Reconsideration shall be filed within ten (10) days of the Council decision.

b. Fact Finding Hearing:
   i. Prior to Reconsideration by the Council, the Zoning Hearing Officer shall conduct a Fact Finding Hearing to gather a complete record of all information relevant to the request.
   ii. The Zoning Hearing Officer shall have the authority to request all information necessary to compile a complete record pertaining to the request.
   iii. Town Officials and the applicant shall fully disclose all information relevant to the fact finding.
   iv. The Zoning Hearing Officer shall prepare a report and recommendation for Council consideration within sixty (60) days of the filing of the request.

c. Council Reconsideration:

   i. The Council shall conduct a public hearing on the request pursuant to the procedures set forth in Section 14-24-1.F.

   ii. In its deliberation, the Council shall consider only the applicant's written request, the findings of fact prepared by the Zoning Hearing Officer, and the Zoning Hearing Officer's recommendation. No new evidence shall be submitted.

   iii. The Council shall uphold, reverse, or modify their prior decision or remand the matter to the Zoning Hearing Officer to develop additional findings.

ARTICLE 14-25 DEVELOPMENT REVIEW

14-25-1 Purpose
14-25-2 Applicability
14-25-3 Application
14-25-4 Development Plans
14-25-5 Design Guidelines - Architecture
14-25-6 Design Guidelines – Exterior Finish Materials
14-25-7 Design Guidelines – Zoning District Requirements
14-25-8 Development Review Procedures
14-25-9 Permits and Construction

Section 14-25-1 Purpose

The purpose of this Article is to:

A. Establish Development Standards and Project Review Procedures to ensure compliance with the technical Codes, Development Policies, project design, and material standards of the Town; and,

B. Preserve and enhance the natural and built environments in terms of topography and community aesthetics, in order to provide a livable and attractive community; and,

C. Support the tourist based portion of the local economy by promoting quality western/southwestern project design and aesthetics.

Section 14-25-2 Applicability

A. Development Review and approval shall be required prior to issuance of any Permit for grading or the construction of any building, structure, structural addition, sign, or parking lot in the Town for the following developments:

1. Single Family subdivisions when developed by a single developer (Tract Homes)
2. Multifamily
3. Commercial
4. Industrial

B. This Article shall not apply to single family residences or Single Family Residential Zoning Districts existing on May 17, 1999.

Section 14-25-3 Application

A. Application: Applications for Development Review shall be made in accordance with this Article. The procedures set forth in Article 14-23 shall not apply.

B. Content: In addition to other information required by Section 14-24-1, a Development Plan shall be submitted with the application that complies with the requirements of Section 14-25-4. Any part of a Development Plan required by State Law shall be stamped by a registered professional. The application shall include the following quantities of plans:

1. Site Plan: The following submittal requirements shall be included in applications for single family tract home subdivisions, multifamily, commercial, and industrial developments:

a. Nine (9) full sized twenty-four by thirty-six inches (24" x 36")
b. One (1) reduced eight and one-half by eleven inches (8.5" x 11")

2. Landscape Plan:

a. One (1) full sized twenty-four by thirty-six inch (24" x 36") black and white
b. One (1) reduced eight and one-half by eleven inches (8.5" x 11") color
c. Nine (9) reduced eight and one-half by eleven inches (8.5" x 11") black and white

3. Building Elevations:

a. One (1) full sized twenty-four by thirty six inches (24" x 36") color
b. One (1) full sized twenty-four by thirty-six inches (24' x 36') black and white
c. Nine (9) reduced eight and one-half by eleven inches (8.5" x 11") color
d. One (1) reduced eight and one-half by eleven inches (8.5" x 11") black and white

4. Lighting Plan:

a. One (1) full sized twenty-four by thirty-six inches (24" x 36")
b. Nine (9) reduced eight and one-half by eleven inches (8.5" x 11")

5. Grading and Drainage Plan: as determined by the Town Engineer.

C. Comprehensive Sign Plan: If required, three (3) booklets

D. Water Conservation Plan: One (1) letter of proposal

E. Screening Plan:
1. One (1) full sized twenty-four by thirty-six inches (24" X 36")

14-25-4 **Development Plan:** Development Plans shall include the following:

A. Proposed Uses. Proposed Uses shall be set forth by note, listing all proposed primary and accessory uses.

B. Grading, Excavation and Drainage Plan. This Plan is intended to preserve the unique topographic characteristics of the Town and provide adequate and systematic drainage. The Grading and Drainage Plan shall comply with the following criteria and generally accepted engineering standards:

1. The Plan shall show existing and proposed grades; pre and post development storm water flow, discharge and retention.

2. The natural configuration of the land should not be disturbed beyond that which is reasonably necessary to create a building site. Native trees, shrubs and cactus shall, when possible, be systematically retained and incorporated into the Landscape Plan. All applications for a Grading Permit shall be accompanied by topographic map with two foot (2') contours and noting all trees having a caliper diameter at a point one foot (1') above grade of two inches (2") and any shrub having an overall height of three feet (3'). Trees, shrubs and cactus retained may be used, in part, to meet the Landscaping Requirements set forth in Subsection E.

3. Cut slopes, fill slopes or combinations thereof shall be limited to a maximum height of ten feet (10'), unless otherwise approved by the Development Review Committee or on Appeal to the Town Council.

4. Cut slopes or fill slopes are acceptable for driveway purposes providing that the average height of all such slopes along the length of the driveway does not exceed four feet (4'). No individual cut slope or fill slope shall exceed six feet (6') or in combination of ten feet (10').

5. Unless soil conditions indicate otherwise, vegetation shall be established on all cut or fill slopes in accordance with accepted slope stabilization practices and the Landscaping Requirements of this Article.

6. Grubbing is allowed for development with the approval of the Zoning Administrator. All grubbed material(s) must be removed from the site before an Occupancy Permit is granted.

7. Stockpiling of materials –earth and building shall not exceed fifty (50) cubic yards and shall be removed from the site before an Occupancy Permit is granted.

8. Property which abuts a Major Street Commercial corridor and applies for a Grading Permit, may be subject to Development Review by the Commission.

C. Water Conservation Plan. This Plan shall set forth those measures~~,~~ which will be utilized to conserve the Town's water supply and shall demonstrate a reduction in total water usage of at least fifteen percent (15%) when compared to conventional plans. It shall indicate by note or narrative all methods and measures which are proposed to moderate the use of water by the proposed development including, but not limited to, the following:

1. Drought tolerant or native landscape materials.

2. Drip irrigation system.

3. Reduced or low volume flush toilets.

4. Low flow water faucets and showerheads.

5. Utilization of non-potable water to fill any water feature or body of water to be used for landscaping or recreational purposes which have a surface area greater than twelve thousand (12,000) square feet.

6. Onsite generated greywater.

D. Site Plan. This Plan shall show all dimensions of the development to insure compliance with all applicable Codes and the dimensioned location of all proposed and existing structures, parking areas, landscape areas, walls, sidewalks, refuse enclosures, and other elements of the proposed development. It shall set forth a functional and aesthetic approach to project development that is consistent with the Codes and policies of the Town. The Site Plan shall be fully dimensioned starting from the centerline of adjacent streets to the property line, the dimensions of all property lines, dimensions from all property lines to setback and/or building lines, dimensions of all onsite buildings, structures and structural elements, dimensions of driveways, parking stalls and back up/maneuvering areas, and refuse enclosures, and other elements of the Plan. The Site Plan shall be considered to be a Conceptual Plan for the future site development of the property. The Site Plan shall include:

1. The location and dimension of all onsite and off-site elements of the proposed development.

2. Surrounding zoning.

3. Subject property zoning.

4. Adjacent road right-of-way dimensions.

5. Setback dimensions of buildings to property lines.

6. Distance measurements between buildings.

7. Scale Bar.

8. North Arrow.

9. Access drives including dimensions.

10. Drive aisles including dimensions.

11. Parking spaces, including the dimensions of the spaces need to be provided on the Site Plan and parking space calculations in the legend.

12. Gross and Net Acreage of the site.

13. Adjoining sidewalks.

14. Label all surfaces (i.e. asphalt, ground cover, buildings, sidewalks, landscaping etc).

15. Trash enclosures, including elevation drawings of the enclosure and label materials and colors trash enclosures should be placed as far from streets and residential properties as possible to help reduce any negative visual impact.

16. Easements.

17. Retention Areas.

18. Pedestrian access and pathways.

19. Open Space and recreational amenities (i.e. ramadas, outside dining and seating areas, fountains, public art, etc).

20. Total Open Space and Landscape Area calculations.

21. Sample material and color boards, which should not exceed eight and one-half by eleven inches (8.5 x 11) in size.

E. Landscape Plan. This Plan shall be a schematic representation of the location of all landscaping materials and screening walls, a plant materials schedule including plant name and variety, number used in plan, on-center spacing when appropriate, and plant characteristics. The Landscape Plan shall include:

1. Legend depicting all trees, shrubs, and groundcover provided within the Plan.

2. Tree and shrub sizes.

3. Illustration of the proposed location of all trees, shrubs, and groundcover.

4. Total quantity/area of trees, shrubs, and groundcover (living and non-living) provided.

5. Dimensioned landscape area for the project.

6. Irrigation Plan that includes:

   a. Irrigation materials list with symbols and key to equipment type.

b. Location of water tap, water meter(s), backflow prevention and controller.

c. Locations and sizes of all mainline.

d. Other supporting information as required by the Plans Review Committee to evaluate the design.

F. Building Elevations. This Plan shall show the architecture of the north, south, east and west elevations for all onsite structures, noting all exterior finish materials and color. A Color and Materials Board is required which indicates consistency with Subsection 14-25-4. A written narrative shall accompany the Plans detailing how the proposed Building Elevations achieve compliance with Section 14-25-5. Building Elevations/faces visible from a public street or adjacent residential neighborhood or zoning district shall contain architectural treatment, including design elements and relief, and shall:

1. Provide a variety of façade treatments to include:

a. Wall undulation including both projections and recesses.

b. Changes in textures, materials, and colors to help minimize the massing of the building and create visual interest.

c. Banding of materials both horizontally and vertically both for aesthetics and to further minimize massing.

d. Windows of different shapes, sizes to create visual interest.

e. Changes in roofline height to help create visual interest and provide a way to minimize massing.

f. Provide canopies of varying types of materials and design including metal or wood.

g. Incorporate ground level arcades and covered areas to help break up building massing.

h. Fully screen mounted equipment.

i. Clearly defined entrances.

2. Include a Roof Plan in the submittal to illustrate where equipment will be placed and to show changes in roof planes for non-flat roofs.

G. Sign Plan. This Plan shall show dimensions, including height, size, location, materials and colors of signs. If the site is to be developed as a complex or center, a Comprehensive Sign Package shall be submitted.

1. The Comprehensive Sign Package shall include:

a. List of all proposed signs.

b. Quantity of freestanding signs.

c. Quantity of monument signage.

d. Quantity of tenant wall mounted signs.

e. Color samples.

f. Font samples, including letter sizes and styles that will be allowed within the development.

g. Total square footage of signage that will be allowed within the development:
   i. This total shall be further divided into groups to illustrate how much square footage shall be allowed per building.
   ii. In no case shall square footages be allowed to exceed sign allowances described in Section 14-18.

h. Illustration of where on each building signage shall be installed.

i. Description of how signage shall be attached to the building. Exposed signage raceways shall not be permitted.

2. The Comprehensive Sign Package shall be provided for the property, and approved through Development Plan Review.

3. For tenants of a complex or center, Sign Permits will only be issued for signs that comply with the previously approved Comprehensive Sign Package, or receive approval through Development Plan Review.

H. Lighting Plan. This Plan is intended to showing light levels and radii around buildings and near property lines in order that staff may review projects and determine if there is enough light to minimize safety concerns while reducing light levels near property lines and the negative impacts that come from light flooding across property lines. Lighting Plans shall comply with the following:

1. All light fixtures in parking lots, on buildings, within landscaped areas, near any flag poles, and any other light located on the subject property shall be clearly drawn on the Plan.

2. Light level radii shall be drawn around each light fixture.

3. Light levels shall be included within each light's radius.

4. Buildings, walls, fences, covered parking, and any other structure located and proposed to remain on the property shall be drawn on the Plans.

5. Show light levels along the entire length of each property line.
   a. Maximum light level at property lines is one (1) foot candle.
   b. Maximum light level across property lines is zero (0) foot candles.

I. Screening. This Plan shall show proposed screening, including fences/walls/berms, screening and perimeter wall details.

J. All light fixtures shall have a ninety-degree (90°) horizontal cutoff to mitigate light pollution.

K. Other Information. Other information required by the Planning Department to insure that the proposed development is consistent with this Zoning Ordinance.

Section 14-25-5 Design Guidelines - Architecture

A. Architectural Styles. Architectural styles are required to be western or southwestern for all development including Single Family Residential Zoning Districts. This Section sets forth architectural styles accepted as western or southwestern.

1. Contemporary Spanish Architecture. A low profile of one to two story (1-2 story) style, characterized by tile roof construction with stuccoed walls and ornate, brick or tile chimney tops. Windows are recessed with rectangular surround panels, and front entry porches are roofed and supported by squat round or square columns. Informal plantings and lavish use of colorful flowers, rock and cacti are used to compliment the subtle, earth tones of the architecture.

2. Santa Fe Adobe/Pueblo Revival Architecture. Characterized by:

   a. A single story appearance.

   b. Thick clay-colored adobe constructed walls and parapet.

   c. Flat roofline appearance.

   d. Small-paneled windows and doors deeply recessed with wooden frames and large, exposed lintels.

   e. Vigas or rounded wood rafters~~,~~ extending through the outside wall surfaces at ceiling level.

   f. Rounded building corners to provide strong structural appearance by maintaining a greater width between the outside corner and the nearest wall opening than the width of the opening.

   g. Installation of informal stone walkways with a xeriscape landscape theme.

3. Spanish Colonial Architecture. Characterized by:

   a. Low, long lines of plastered or stuccoed walls capped with decorative brick cornices.

   b. Small pane windows enhanced by paneled-wood shutters and deep recesses, bordered by brick sills and rectangular hoods or pediments.

   c. Entry porches lined with brick floors and slender wood or stucco columns, topped by simple capitals and neck moldings.

   d. Brick walkways

4. Mission Architecture. Characterized by:

   a. The lavish use of arches and by vertical design elements including square bell towers, curved cupolas and domes.

   b. Arched entries embellished with ornate carving and sculptural relief, contrasted with relatively plain, plastered, wall surfaces flanking the entries.

   c. Building profiles ranging from one (1) to (4) story with roof styles varying from parapet, flat roof facades to tiled, pitched and vaulted roofs.

   d. Tiled colonnades of arches are prevalent as approach walkways and open-walled rooms.

B. Variants. Any variant on the above styles, which is found by the Development Review Committee to constitute southwestern/territorial architecture. Gambrel, Mansard and "A" Frame roofs are prohibited.

Section 14-25-6 Design Guidelines – Exterior Finish Materials

All construction located in any Commercial Zoning Districts or Planned Area Development Overlay Districts, the Heritage Area, or any property or portion of property which is located within three hundred (300) feet of a major or principal arterial as indicated on Map 21 of the *General Plan* as adopted by the Town Council on August 4, 2003, Shall conform with the exterior finish materials requirements listed below:

A. Exterior Building Walls:

PREFERRED: Natural materials including brick, adobe, mortar washed slump block, split face block, rock, and stucco or plaster with a smooth or sand finish, wood. Board and bat consisting of one inch by twelve inch (1" x 12") boards with one inch by three inch (1" x 3") bats or rough sawn plywood having a minimum thickness of five eights inch (5/8") with one inch by three inch (1" x 3") bats applied twelve inch (12") on center. Cast metal decorative elements including storefront facades, metal hoods or other decorative elements such as cornice detailing.

PROHIBITED (Unless Concealed From View): Grooved plywood, compounded hard/compressed board siding products, aluminum or vinyl siding, any type of corrugated steel or tin, plastics, fiberglass, asphaltic, or imitation materials, or skip trowel stucco in Commercial Zoning Districts.

B. Roofs:

PREFERRED: Standing seam metal with patina or core ten finish. No paint or enamel, traditional corrugated tin or metal, clay tile, concrete tile, wood shakes, parapet wall are allowed.

PROHIBITED (Unless concealed behind a parapet wall or otherwise concealed from view): Asphalt shingles, fiberglass shingles, composition shingles, rolled roofing, plastic, fiberglass, foam, tar and gravel, and tar or tar paper.

C. Window and Door Frames:

PREFERRED: Masonry, Wood, Bronze or Brown Aluminum.

PROHIBITED: Natural Colored Aluminum.

D. Fences and Walls:

PREFERRED: Smooth or sand finished stucco over concrete masonry units (CMU), adobe brick, wood, stone, wrought iron or other natural materials approved by the Zoning Administrator. Required screening walls shall, in all cases, be constructed of a solid opaque material.

PROHIBITED:

1. Unless concealed from view and approved by the Commission, installation of chain link with or without slats, box wire, wire. Barbed wire, corrugated tin or metal, or fiberglass is prohibited.

2. Barbed wire is prohibited unless (i) it is placed at least six feet (6') above ground level and is utilized as a guard to a parking lot or a commercial or industrial building or structure, or (ii) the Zoning Administrator issues a Permit for a barbed wire fence pursuant to paragraph (4).

3. Electric fences are prohibited unless the Zoning Administrator issues a Permit for an electric fence pursuant to paragraph (4).

4. The Zoning Administrator may issue a Permit for a barbed wire or electric fence upon a determination that the barbed wire fence is necessary to prevent livestock from entering upon the land of the owner of the proposed fence. Any determination by the Zoning Administrator to Permit a barbed wire or electric fence shall be based on evidence of livestock having previously entered upon the property and having caused damage to the property or improvements thereon. The Permit shall expire five (5) years from the date of issuance. Prior to expiration of the Permit, the owner of the fence may submit an application for a new Permit for a barbed wire or electric fence pursuant to this Section. Barbed wire fences installed at least six feet (6') above ground level pursuant to paragraph d (2) (i) are not required to obtain a Permit. Permits for electric fences shall include an Agreement to indemnify and hold harmless the Town from any injury or damages resulting from the use of the electric fence.

E. Faux Materials: Any building material that attempts to mimic another material may only be utilized upon a finding by the Development Review Committee, or on Appeal, the Town Council, that the material meets the aesthetic purpose and intent of this Article. For example, plastic or aluminum formed to resemble tile, pressboard formed to resemble wood siding.

F. Consideration of Alternate Materials: Materials other than those prohibited may be submitted to the Development Review Committee for consideration. The Committee may approve alternate materials. However, if the Committee's decision is Appealed~~,~~ the Town Council may approve alternate materials if there is sufficient evidence and justification to find that the alternate material is of equal or better quality in terms of aesthetics and longevity than the preferred materials; and, further that the purpose and intent of this Article will be advanced with the approval of the alternate material.

Section 14-25-7 <u>Design Guidelines – Zoning District Requirements</u>

A. Single Family Residential Districts. Subdivision Design Standards for subdivisions with more than twenty (20) lots, the following may be required:

1. Entry Feature.

2. Perimeter Decorative Wall for properties which abut major street corridors.
   a. Wall undulation and other visual breaks shall be required.
   b. Shall be constructed of a minimum of two (2) different materials (i.e. smooth and split face CMU block).
   c. A subdivision greater than forty (40) acres made up of one (1) acre lots shall be exempt.

3. A minimum of four (4) house plans shall be required and three (3) elevations per house plan each exhibiting a different style of architecture.

4. Subdivision Streetscape Theme.

5. Fifteen percent (15%) of entire property under development shall be useable open space and may include the following:
   a. Retention areas as long as the area is planted with turf and can be used for recreational activities. No more than fifty percent (50%) of the required useable open space may be used for retention purposes.
   b. Neighborhood Parks that provide recreational activities for children (tot lots).
   c. Trail Systems.
   d. Pool.
   e. Clubhouse.

6. Design Standards for residential lots individually or as part of a subdivision when less than twelve thousand (12,000) square feet and without a master building:
   a. Staggered front yard setbacks (reduced front yard setback requirements for side loaded garages).
   b. Same housing plan elevations shall not be permitted to locate on adjacent lots.
   c. Decorative window treatments ([four] 4-sided architecture).
   d. Approved Landscaping Package for each house, developer shall provide multiple options for homeowners to choose from.

B. Multifamily Residential Districts.
Development Review Guidelines for Multifamily Residential Zoning Districts shall apply to all developments of apartments, condominiums, town houses, duplexes built within the Town. These standards are intended to set the minimum required level of quality for multifamily residential development. All applications shall provide the following standards:

1. Common Open Space:

   a. All multifamily developments shall provide fifteen percent (15%) of the developable lot as useable open space which will provide residents of the development with opportunities for recreational activities.

   b. Recreational Facilities may include:
      i. Pool.
      ii. Ballfields, Courts.
      iii. Tot Lots and Playground.
      iv. Barbeque and Picnic Equipment, Tables, Ramadas, and Shade Structures.

   c. Landscaping requirements for Multifamily Developments are outlined in Section 14-19.

2. Private Open Space:

   a. All Multifamily Developments shall provide private open space areas for each dwelling unit in the form of balconies or patios.

   b. A minimum sixty (60) square foot area shall be provided for each dwelling unit.

3. Development Guidelines:

   a. Include embellishments such as columns, wall undulation, parapets to screen roof equipment, popouts.

   b. Use multiple types of materials to provide visual breaks in the massing of the structures.

   c. Each building should include two (2) to three (3) different complimentary colors as approved by the Zoning Administrator.

4. Perimeter Screening and Treatments: The required front yard shall be devoid of parking and structures except screening walls having a maximum vertical height of three (3) feet.

Section 14-25-8 Development Review Procedures

A. Technical Review Committee:
   1. The Technical Review Committee shall review the Plans for compliance with applicable statutes and ordinances and shall assist the applicant in the application process. The Technical Review Committee may include:

      a. Planners
      b. Public Works Director
      c. Town Engineer
      d. Building Inspector
      e. Police Chief
      f. Fire Chief
      g. Electric Utility Representative
      h. Gas Company Representative
      i. Telephone Company Representative
      j. Arizona Department of Transportation
      k. Cable Company Representative
      l. Trails Advisory Committee Member

2. All members of the Technical Review Committee shall provide the Zoning Administrator with comments regarding the application within fifteen (15) work days of receipt. The Zoning Administrator shall review the comments and the application and within ten (10) business days and shall take one of the following actions:

   a. Approve.
   b. Approve with Conditions.
   c. Deny.
   d. Forward to the Development Review Committee with or without a recommendation.

3. The Zoning Administrator may approve, conditionally approve, deny Plans or forward to the Development Review Committee with or without a recommendation for the following applications:

   a. Signs or Sign Programs which conform to Article 14-18 Sign Regulations and are consistent with the Heritage Area or the Southwestern Territorial Development Theme and are not part of a project which requires review by the Commission or Town Council.

   b. Duplexes, triplexes, four-plexes that are not part of a project containing more than one (1) building.

   c. Commercial and Industrial structures which meet the requirements of all applicable ordinances where the property proposed for development has Zoning Entitlement and/or does not exceed fifteen hundred (1,500) square feet in size.

4. The Zoning Administrator may refer any application for Development Review directly to the Commission with or without a recommendation.

B. Development Review Committee Review:

1. The Commission shall be the Development Review Committee.

2. Any application for development review shall be approved, conditionally approved or denied within forty-five (45) days after a completed application has been submitted to the Commission, unless the applicant shall request such time be extended or it is determined by the Town that there are outstanding technical questions that require resolution by other agencies or utilities. If the application is deemed complete by the Zoning Administrator and fail to be heard by the Development Review Committee within forty-five (45) days of completed application, the fee shall be returned to the applicant.

3. In order to approve any proposed plan, the Commission shall make the following Findings:
   a. That the proposed plans are consistent with the *General Plan*.
   b. That the proposed plans are consistent with the requirements of this Zoning Ordinance and all other applicable Code Sections.

4. Modifications:
   a. The Development Review Committee may approve modifications to the minimum standards set forth in this Article 14-25 where reasonably required by unique circumstances associated with the proposed project.

   b. In approving any modification, the Development Review Committee shall make the following required findings. All findings shall be supported by verifiable evidence.

      (1) That the proposed modification(s) will yield a project design which is equally or more desirable in terms of function, aesthetics, view, and general appropriateness than that which would result by requiring strict adherence to the terms and regulations of this Article.

(2) That the proposed modification(s) will in no way impair the health, safety and welfare of future occupants of the proposed development, adjacent developments or residents of the Town.

(3) That strict adherence to certain of the terms and regulations of this Article is not required in order to protect the property value of adjacent and nearby properties as well as the tourist based sector of the economy.

(4) That the proposed modification(s) is consistent with the policies and goals embodied in the *General Plan*.

5. Expiration of Development Review Approval.
The Development Review approval shall expire if the plans substantially change from what was previously approved. Developer shall retain the right to appeal the decisions of the Development Review subject to Section 14-25-9-c-2.

C. Appeals:

1. Appeals of Decisions of Zoning Administrator. An applicant or aggrieved person may appeal the decision of the Zoning Administrator by filing an Appeal in writing with the Planning Director within fifteen (15) calendar days following the date of decision by the Zoning Administrator. The Appeal fee as established by resolution of the Town Council shall be submitted with the appeal. Within thirty (30) days following the filing of an Appeal, the Development Review Committee shall affirm, modify or reverse the decision of the Zoning Administrator.

2. Appeals of Decisions of Development Review Committee. An applicant or aggrieved person may appeal the decision of the Development Review Committee by filing an Appeal, in writing, with the Planning Director within fifteen (15) calendar days following the date of decision by the Development Review Committee. The Appeal fee as established by resolution of the Town Council shall be submitted with the appeal. Within thirty (30) days following the filing of an Appeal, the Town Council shall affirm, modify or reverse the decision of the Zoning Administrator.

Section 14-25-9 Permits and Construction

A. Permits and Construction:

1. No permits for the construction of any building or structure shall be issued in any Zoning District until the required plans have been approved by the Zoning Administrator or the Development Review Committee or, on Appeal, by the Town Council.

2. All buildings, structures and grounds shall be developed in strict conformance with said plans as finally approved.

3. Prior to the issuance of an Occupancy Permit for any building or structure subject to this Article, the entire project, as defined by the approved plans, shall be completed in its entirety.

4. The Zoning Administrator may issue a Stop Work Order and the Development Review Committee may, after a public hearing with notice to the permittee, revoke any approval given pursuant to this Article for non-compliance with any of the conditions imposed through the approval process. Such revocation shall be deemed revocation of the Building Permit. Written notice of intention to revoke shall be mailed to the permittee not less than fifteen (15) days before the Development Review Committee hearing date. Said revocation may be appealed in the manner provided in Section 14-25-8-c.

5. For those construction or development projects which do not require a Building Permit but are located in those areas covered by this Article, a Zoning and Development Review Certificate of Compliance shall be obtained from the Zoning Administrator prior to commencing work. Examples of such projects include: remodels, parking lots, walls, fences, signs, or other construction, which is visible from a public street or way.

ARTICLE 14-26 NON-CONFORMING USES

14-26-1 Regulations
14-26-2 Non-Conformance To Regulations

Section 14-26-1 Regulations

A. The lawful use of land existing at the time of the passage of the Ordinance, although such does not conform to the provisions hereof for said land, may be continued, but if such Non-Conforming Use is discontinued for a period of one (1) consecutive year, any future use of said land shall be in conformity with the provisions of this Ordinance.

B. The lawful use of a building existing at the time of the passage of this Ordinance may be continued although such use does not conform with the provisions hereof for such building and such use may be continued provided no structural alterations, except those required by law or ordinance or permitted under this Ordinance are made. Maintenance of the structure required for the health, safety, and public welfare of the owner and adjacent properties shall be permitted.

C. Whenever the use of a building becomes non-conforming through a change in the Zoning Ordinance or district boundaries, such use may be continued unless the use of the property is discontinued for a period of one (1) year.

D. In the event that a Non-Conforming Use of a building is discontinued for a period of one (1) year, any future use of said building or premises shall be in conformity with the provisions of this Ordinance, excepting for those matters set forth in G. of this Section.

E. No existing building designed, arranged, intended for, or devoted to a use not permitted under the regulations of this Ordinance for the district in which such building or premises is located shall be enlarged, extended, reconstructed or structurally altered unless such building and such enlargement, extension, reconstruction and structural alterations and further use conform with the regulations specified by this Ordinance for such district in which the building is located.

F. Nothing in this Article shall be interpreted as authorization for, or approval of the continuance of any use of a building or premises that is not deemed non-conforming and is in violation of zoning regulations in effect at the time of the effective date of this Ordinance.

G. Any legal non-conforming building or structure or one (1) or more of a group of non-conforming buildings or structures that is damaged by fire, explosion, act of God or act of the public enemy, may be reconstructed and used as it was before such catastrophic event occurred. Reconstruction must begin within twelve (12) months from the date the event which caused damage to the building(s) or structure(s). The restored building or structure shall cover no greater area, nor have greater cubic content and shall have equal or greater, front, side and rear yard setbacks.

Section 14-26-2 Non-Conformance To Regulations

The Town may acquire by purchase or condemnation private property for the removal of Non-Conforming Uses and structures. The elimination of such Non-Conforming Uses and structures in a zoning district is a public purpose. Nothing in the Zoning Ordinance shall affect existing property or the right to its continued use at the effective date of this Ordinance, nor to any reasonable repairs or alterations in buildings or property used for existing purposes (Reference A.R.S. §9-462.02).

ARTICLE 14-27 PENALTY AND VIOLATION

14-27-1 Violations
14-27-2 Invalid Permits And Approvals
14-27-3 Enforcement Responsibilities
14-27-4 Violation; Notice And Opportunity To Correct
14-27-5 Violations And Citations
14-27-6 Penalties
14-27-7 Habitual Offenders
14-27-8 Cumulative Procedures And Remedies
14-27-9 Failure To Provide Evidence Of Identity

Section 14-27-1 Violations

A. A violation occurs when any building or structure is constructed, reconstructed, altered, repaired, converted, or maintained, or when any building, structure, or parcel of land is used in violation of this Ordinance. The Town or any affected owner or tenant of real property in the same contiguous zoning district as the building or structure in question may, in addition to other remedies, may institute any appropriate action or proceeding as follows:

1. To prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use.
2. To prevent the occupancy of the building, structure or land.
3. To prevent any illegal act, conduct, business or use in or about the premises.
4. To restrain, correct or abate the violation.

Section 14-27-2 Invalid Permits and Approvals

Any Permit issued or Administrative Approval granted in conflict with any provision of the Zoning Code, a Zoning Ordinance, a Use Permit, a Variance, or a Design Review approval is void.

Section 14-27-3 Enforcement Responsibilities

A. Building Department: Prior to issuance of a Building Permit, the Building Department shall review the plans submitted with the Building Permit application for compliance with the Zoning Code, the Rezoning Ordinance, the Conditional Use Permit, a Variance, all Subdivision Regulations, and the Design Review approval, as applicable.

B. Code Enforcement Officer: The Code Enforcement Officer shall enforce the provisions of the Zoning Code, Rezoning Ordinances, Conditional Use Permits, Variances and Design Review approvals and is authorized to stop any work undertaken not in compliance with any provision of the Zoning Code, a Rezoning Ordinance, Rezonings, Conditional Use Permit, a Variance, or a Design Review approval.

C. Town Attorney: The Town Attorney may commence an action in Superior Court to abate a violation of the Zoning Code, a Rezoning Ordinance, a Conditional Permit, a Variance or a Design Review approval.

Section 14-27-4 Violation; Notice and Opportunity to Correct

A. Notice: Before issuing a citation for a violation the Code Enforcement Officer shall provide a written notice of the violation to the property owner and person in control, or to the authorized agent of the property. The notice shall set forth:

1. The violation.
2. What is required to bring the property into compliance.
3. The time period allowed bringing the property into compliance.

B. Time Period: The time period provided to correct violations other than violations of the Sign Regulations shall be a minimum of ten (10) days, unless the violation creates an unsafe condition, in which case the time period for correction shall be determined by the Code Enforcement Officer based on the severity of the danger. The time period provided to correct violations of Sign Regulations are set forth in Article 14-18.

C. Failure to Receive Notice: Failure of the property owner, person in control, or authorized agent of the property to receive a notice shall not preclude issuance of a citation.

Section 14-27-5 Violations and Citations

If a violation continues past the time set forth in the Notice of Violation, a citation shall be issued to the property owner, person in control, or authorized agent of the property, and shall be subject to the following:

A. Citations may be issued by the Code Enforcement Officer, by a Town of Wickenburg Police Officer, or by a Sworn Officer of another Police or Sheriff's Office acting on behalf of the Town.

B. Each day a violation continues, or the failure to perform any act or duty required shall each constitute separate civil offenses.

C. Every civil action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to civil traffic procedures and the Arizona rules of procedure in civil traffic violation cases.

Section 14-27-6 Penalties

A. A citation issued pursuant to Section 14-27-5 shall direct the person to whom the citation is issued to pay a fine in the amount of not more than three hundred dollars ($300) for each offense. Payment of the fine shall constitute a finding of responsibility for the violation for purposes of Section 14-27-7.

B. Upon a finding by the Magistrate Court that a person is responsible for a civil violation. That person, corporation, or other legal entity shall be subject to a civil fine of not more than three hundred dollars ($300) for each violation imposed by the Town Magistrate Court.

C. Any judgment for civil fines or penalties may be collected as any other civil judgment, as provided for in the Arizona Revised Statutes (A.R.S.).

Section 14-27-7 Habitual Offenders

A. Any person found responsible by the Magistrate Court for committing three (3) or more civil violations of the Zoning Code, a Zoning Ordinance, a Use Permit, Variance or Design Review approval within a twenty-four (24) month period, whether by admission, by payment of the fine, by default or by judgment after hearing shall be determined to be a habitual offender. For purposes of calculating the twenty-four (24) month period under this Subsection A, the dates of the Commission of the offenses are the determining factor.

B. A habitual offender who subsequently violates the Zoning Code, a Zoning Ordinance, Use Permit, Variance, or Design Review approval shall be guilty of a Class 1 Misdemeanor Offense and shall be subject to the penalties set by the Arizona Revised Statutes (A.R.S.).

C. Notwithstanding the above elective penalty, upon conviction of a habitual offender of a violation of the Zoning Code, a Zoning Ordinance, a Use Permit, Variance, or Design Review approval, the Court shall impose a fine of not less than five hundred dollars ($500) for each count upon which a conviction is obtained.

D. A judge shall not grant probation to a habitual offender or suspend any part of a sentence or fine imposed upon a habitual offender for any sentence required by this Subsection, except on the condition that the habitual offender pays the fine imposed by the Court, as provided in this Section.

E. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to misdemeanors and the Arizona Rules of Criminal Procedure.

Section 14-27-8 Cumulative Procedures and Remedies

The procedures and remedies provided for herein shall be cumulative and in addition to any other procedures and remedies to which the Town may be entitled by law or equity.

Section 14-27-9 Failure to Provide Evidence of Identity

A person who fails or refuses to provide evidence of his or her identity to the Town Zoning Administrator, Building Official, Building Inspector, the Code Enforcement Officer, a Police Officer or any other authorized agent of the Town upon request, when such agent has reasonable cause to believe the person has committed a violation of the Zoning Code, is guilty of a Class 1 Misdemeanor. Evidence of identity shall consist of a person's full name, residence address, and date of birth.

ARTICLE 14-28 REPEAL, VOID PARTS, SAVING CLAUSE, EFFECTIVE DATE

A. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

B. The invalidity of any Section or part of this Ordinance shall not affect the validity of the remainder of said Section or the remainder of this Ordinance.

C. This Ordinance shall be in full force and effect from and after its passage, approval and publication, as required by law.

D. This Ordinance is hereby directed to, and shall be published in loose-leaf pamphlet form.

E. The repeal of the ordinances or parts thereof specified in Section 14-28 of this Article shall not:

1. Affect suits pending or rights existing immediately prior to the effective date of this Ordinance; or,

2. Impair, avoid or affect any grant or conveyance made or right acquired or cause of action now existing under such repealed ordinance or amendment thereto; or,

3. Affect or impair the validity of any bond or other obligation issued or sold in conjunction with valid obligation of the issuing authority immediately prior to the effective date of this Ordinance.

ARTICLE 14-29 GLOSSARY OF TERMS AND DEFINITIONS

14-29-1 Definitions

14-29-1 Definitions *Ord. 1166

A. In addition to the definitions set forth in Article, 14-18, for the purpose of this ordinance, certain words are hereby defined:

1. **Accessory Business:** A commercial enterprise providing a service on the premises of an existing principal business, including car detailing services and valet services, machine operated businesses, where no goods or wares are sold other than at a machine operated vending machine.

2. **Adjoining Lot or Land:** A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land.

3. **Adult Bookstore:** Any commercial establishment having as a substantial or significant portion of its stock in trade books, magazines, other periodicals, motion pictures or video cassettes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to 'specified sexual activities or specified anatomical areas'.

4. **Adult Theaters:** Any commercial establishment, whether located in an enclosed building or open-air drive-in theater, regularly used for presenting or for observation by patrons any film or plate negative, film or plate positive, film or tape designed to be projected on a screen for exhibition, or films, glass slides or transparencies, either in negative or positive form, and which is designed for exhibition by projection on a screen, or in any type of viewing booth which is distinguished or characterized by an emphasis on matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas'.

5. **Adult Uses:** Adult bookstores, cabaret, gentleman's club, and adult theaters.

6. **Agriculture:** The production, keeping or maintenance, for sale, lease or personal use, of plants useful to man, including but not limited to: forages and sod cops; grains and seed crops; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation management plan.

7. **Airport:** A facility that includes areas for landing, storage of planes and equipment, loading and unloading luggage and merchandise, and used regularly by aircraft for receiving or discharging passengers or cargo.
   a. **Helipad:** An area at a heliport established for the landing or take-off of helicopters.
   b. **Heliport:** A landing area solely for the use of helicopters. A heliport may include more than one helipad.
   c. **Landing Area/Runway:** Any locality, either land or water, including airports, and landing fields, which is used or intended to be used for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing or repair of aircraft, or for receiving or discharging passengers or cargo.
   d. **Landing Area Boundary:** The outer limit of the land or water of a landing area

8. **Airport Advisory Commission:** The Commission created by Article 3-3 of the Town Code.

9. **Alley:** Right-of-way or easement which grants ~~a~~ secondary vehicular access to abutting lots not intended for general traffic circulation or parking.

10. **Alley Line:** The boundary which separates the right-of-way of an alley from the abutting property.

*Ord. 1166-11/2016

11. **Alteration:** Any change or rearrangement in the supporting members of an existing building, such as bearing walls columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

12. **Amusement Facility:** An outdoor area or enclosed building, open to the public, which may contain coin operated games, and similar entertainment and amusement devices.

13. **Amusement Park:** An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and building for shows and entertainment.

14. **Antique Store:** A place of business where old collectable items are sold to the general public.

15. **Arcade:** A covered passage connected to a building with pillars and arches supporting it on one (1) side.

16. **Art Gallery:** A structure used for the display and sale of art.

17. **Automobile Graveyard:** Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

18. **Bank:** A structure used as a financial institution licensed by the government.

19. **Barber, Beauty Shop:** An establishment dealing with cosmetic treatments for men and women.

20. **Bars:** A structure or part of a structure used primarily for the sale or dispensing of liquor by the drink.

21. **Basement:** That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling.

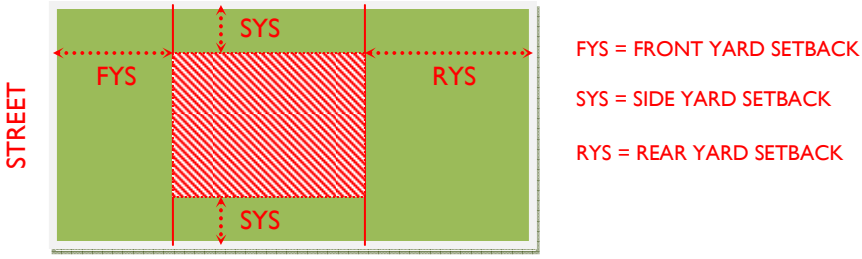
22. **Bed and Breakfast Lodging:** Any dwelling in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for compensation.

23. **Behavior Health Facility:** A clinic that is licensed by the stat, whose professional activities address a client's behavior issues; examples include psychiatrist, social worker, marriage and family counselors, professional clinical counselors', licensed drug/alcohol abuse counselors and mental health professionals.

24. **Board**: All references to a "Board" within the Zoning Ordinance for the Town shall be in reference to the Board of Adjustment of the Town.

25. **Boarding House:** A building where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons, but not exceeding twenty (20) persons.

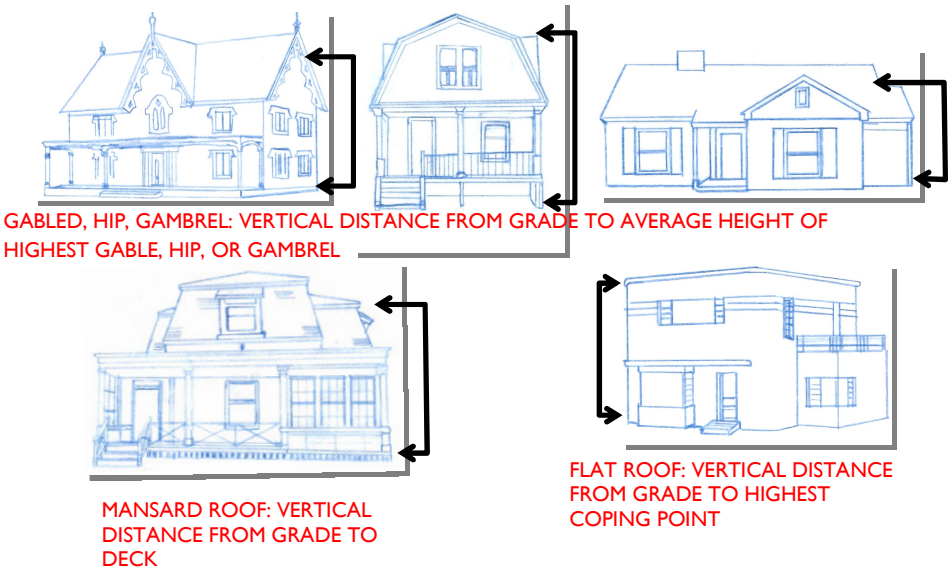
26. **Buildable Area:** The portion of a lot which is within the envelope formed by the required front, side, and rear yards setbacks. See "yard, required."



27. **Building:** A structure having a roof supported by columns or walls for housing, shelter or enclosure of persons, animals, chattels or property of any kind.

28. **Building, Accessory:** A building or structure which is subordinate to, and the use of which is incidental to that of the principal building, structure or use on the same lot.

29. **Building Height:** The vertical distance from grade to the highest point of the coping of flat roof; to the deck line of a mansard roof; or the average height of the highest gable, hip or gambrel roof.



30. **Building, Principal:** A building in which is conducted the principal use of the lot on which it is situated. In a residential zoning district any dwelling is deemed to be the principal building on the lot on which it is situated.

31. **Caretaker's Residence:** Living space used to house a person with the responsibility of maintaining the property or caring for the primary resident(s).

32. **Carport:** A roofed structure with two (2) or more open sides under which a vehicle may be driven and parked.

33. **Cemetery:** Property used for the interring of the dead, including animals.

34. **Child Care Center:** A private establishment enrolling four (4) or more children between two (2) and five (5) years of age and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a Child Care Center.

35. **Clinic:** An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

36. **Commission:** The Planning and Zoning Advisory Commission.

37. **Community Center:** A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or nonprofit group or agency.

38. **Conditional Use:** A Use Permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in the zoning ordinance and authorized by the Town Council.

39. **Condominium:** An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a building on such real property. A separate interest in other portions of such real property may be included.

40. **Conference Center:** A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include sleeping, eating, and recreation. A conference center is not designed to be only utilized by the general public for overnight purposes.

41. **Contiguous:** Next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous.

42. **Convalescent Home**: A facility or institution for the care of convalescing patients.

43. **Convenience Store**: A small store or shop that sells such items as candy, soft drinks, lottery tickets, food items, medications, and publications.

44. **Cooking Facility**: An affixed cooking appliance.

45. **Corral:** A pen or enclosure for confining animals not used for riding in.

46. **Council:** The Common Council of the Town of Wickenburg.

47. **Court:** Central unobstructed open space surrounding by buildings or structures and which is open to the sky from and above the floor level of any room having a window or door opening to such court. The width of the court shall be its least horizontal dimension.

48. **Curb:** A stone or concrete boundary usually marking the edge of the roadway or paved area.

49. **Drive-In or Drive-Through Restaurant:** A type of service provided by a business that allows for customers to purchase food products without leaving their automobiles.

50. **Drug Store:** A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines but where nonmedical products are sold as well.

51. **Dwelling:** A building or portion thereof designed or used exclusively for residential occupancy, including single family, two family, and multiple family dwellings, but not including hotels, boarding and lodging houses.

52. **Dwelling, Multiple-Family:** A building or portion thereof designed for occupancy by three (3) or more families and includes condominiums, Townhomes and patio homes.

53. **Dwelling, Single-Family:** A building designed for occupancy by one (1) family.

54. **Dwelling, Two-Family:** A building designed for occupancy by two (2) families.

55. **Dwelling Unit:** One (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and not having more than one cooking facility per unit.

56. **Dwelling Unit, Efficiency:** A dwelling unit consisting of not more than one (1) habitable room together with kitchen or kitchenette and sanitary facilities.

57. **Easement:** A grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

58. **Essential Services:** Comprises the installation, construction, improvement, and maintenance of gas, electricity, steam or water, sewer, communication, traffic infrastructure, fire and police services (i.e. hydrants, police call boxes, etc) and all appurtenant drains, pipes, cables, or other similar equipment necessary for providing adequate services to the public for the livability of the residents and the health, safety, and general welfare of the community. Essential services does not include buildings, electrical substations, transmission towers, and wireless communication facilities.

59. **Façade:** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

60. **Family**: One (1) or more persons related by blood, marriage, adoption or a couple and children living together as a single housekeeping unit in a dwelling unit, or one (1) but not more than five (5) persons who need not be related, living together as a single, housekeeping unit within a dwelling.

61. **Farm**: An area of not less than twenty (20) contiguous acres which is used for the commercial production of farm crops including vegetables, fruit trees, cotton, grain and other crops and their storage on the property as well as the raising of farm poultry and animals, such as horses, cattle, sheep, ratites, not chickens and swine for commercial purposes.

62. **Farm Stand:** A temporary structure used for the display and sale of agricultural products of which all products are grown on the same property as the sale.

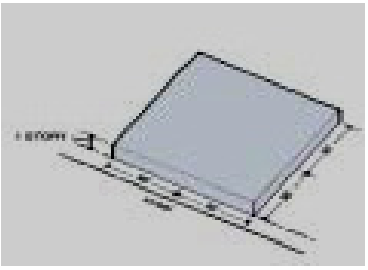
63. **Farmer's Market:** An open air market where fresh produce and other raw agricultural products, which are used for human and animal consumption, are sold by the producer.

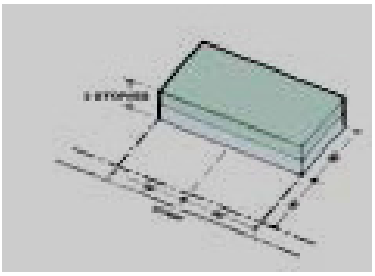
64. **Feed Lot, Commercial**: A livestock feeding or handling facility operated to prepare or fatten livestock for market which may be used to accommodate the needs of multiple livestock owners in whole or in part for compensation paid to the operator or owner for the accommodations, materials, and services rendered.

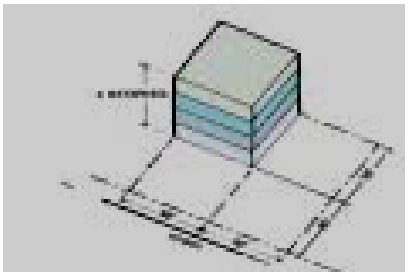
65. **Floor Area**: The sum of the gross horizontal areas of every floor of all buildings on the lot measured from the exterior faces of the exterior walls or from the center line of walls separating the buildings. Calculations shall include basement floor area, elevator shafts and stairwells at each floor, floor space used for mechanical equipment, penthouses, interior balconies and mezzanines, and enclosed porches calculations shall not including any space devoted to parking, or to loading and unloading.

66. **Floor Area Ratio (Far):** The ratio of the floor area of a building to the area of the lot on which the building is located. The diagram below illustrates three (3) simple ways that a 1:1 far (or 100% lot coverage) might be reached:

one (1) story covering the entire lot; two (2) stories covering half of the lot; or four (4) stories covering a quarter of the lot all result in the same far.







67. **Frontage:** That side of a lot abutting on a street; the front lot line.

68. **Funeral Home:** A building used for the preparation of the decreased for burial, the display of the decreased, and ceremonies connected therewith before burial or cremation.

69. **Garage, Private**: An accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles of occupants in the building to which such garage is accessory, but not including the parking or temporary storage of delivery or truck motor vehicles having a capacity in excess of one (1) ton.

70. **Garage, Public**: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor vehicles.

71. **Garage Sale:** See Yard Sale.

72. **Grade:**
    a. For buildings having walls adjacent to one (1) street only, the elevation of the sidewalk at the center of the wall adjoining the street, or if there be no sidewalk, then the elevation of the roadway at the center of the wall adjoining the street.
    b. For buildings having walls adjacent to more than one (1) street, the average of the elevation of the sidewalk at the centers of all walls adjoining the streets, or if there be no sidewalks, then the average of the elevation of the roadway at the centers of all walls adjoining the street.
    c. For buildings having no walls adjacent to the street, the average level of the finished surface of the ground adjacent to the centers of all exterior walls of the building.
    d. Any wall parallel or nearly parallel to and not more than five (5) feet from a street line is to be considered adjacent to the street.

73. **Group Home for the Handicapped:** A dwelling shared by handicapped persons who reside together as a single housekeeping unit and who receive care, supervision, or counseling from one or more staff persons. This definition shall include adult care homes, homes for the mentally ill, group care agencies and similar residential living arrangements for handicapped persons, but shall not include boarding houses, nursing homes, or substance abuse treatment facilities.

74. **Grubbing:** Removal of roots and plant material to a depth not to exceed twelve (12) inches.

75. **Guest**: Any person who rents or occupies a room for sleeping purposes.

76. **Guest House:** An attached or detached accessory building used as a temporary dwelling for guests of the occupants of the main building, and which can never be used for rental purposes. A guest house providing cooking facilities shall be considered a separate dwelling unit in addition to the primary residence.

77. **Guest Ranch:** A building or group of buildings containing two (2) or more guest rooms, other than a boarding house, hotel, or motel, and including outdoor recreational facilities such as, but not limited to, horseback riding, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities, and dining facilities intended to be used primarily by guests of the Guest Ranch.

78. **Guest Room:** A room which is designed for occupancy by one (1) or more guests for sleeping purposes, but having no cooking facilities. Does not include dormitories.

79. **Handicapped Person:** A person who: (a) has a physical or mental impairment which substantially limits one (1) or more major life activities; (b) has a record of having such an impairment; or, (c) is regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to controlled substances (as defined in Section 102 of the Controlled Substances Act [21 United States Code § 802]).

80. **Home Occupation:** Any occupation or profession conducted entirely within a dwelling unit and carried on by the resident or owner, and which is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes. The home occupation shall comply with the standards outlined in Section 14-4-2-A(4).

81. **Horse Arena:** An enclosed area, with or without a roof, for the exercising and training of horses.

82. **Horse Boarding:** A facility used for the keeping and tending of horses generally consisting of box stalls, tack rooms, arenas, access to trails and on-site trainers.

83. **Hospital:** An institution for the diagnosis, treatment, or other care of human ailments. The term hospital shall include sanitarium, clinic, rest home, nursing home, convalescent home, any treatment center or facility and maternity home.

84. **Hospital or Clinic for Animals:** An institution providing health services and medical or surgical care to animals.

85. **Hotel:** A building which is designed, intended, or used for the accommodation of twenty (20) or more tourists, transients, guests and permanent guests for compensation and where access to and from all guest rooms is made through an inside lobby or office. A hotel may include limited cooking facilities within each room or within a common area shared by multiple rooms.

86. **Hotel, Resort:** A building or group of buildings, other than a motel, boarding house or lodging house, containing individual guest rooms, suites or guest rooms, and dwelling units, and which furnishes services for compensation customarily provided by hotels.

87. **Impound Lot:** A facility, public or private, which provides storage for vehicles that the Police Department seizes or are deemed abandoned.

88. **Junk:** Any old or scrap, iron, steel, copper, brass, rope, rags, batteries, paper, trash, wood and rubber debris, and other waste products. Also includes whole or parts of junked, dismantled, or wrecked automobiles, and any other old or scrap metal material.

89. **Junkyard:** An establishment or place of business which is maintained, operated, and used for storing, keeping, buying, and selling junk, or for the maintenance and operation of an automobile graveyard. The term "junkyard" includes garbage dumps and sanitary fills.

90. **Kennel:** Any establishment, at which dogs and cats are bred, raised for sale, boarded, or cared for commercially or on a nonprofit basis. A kennel shall exclude dental, medical, and surgical care, and shall not be used for quarantine purposes.

91. **Land Use Law:** Any statute, rule, ordinance, resolution or law enacted by this State or a political subdivision of this State that regulates the use of land or any interest in land or that regulates accepted farming or forestry practices.

92. **Landscaping/Landscaped:** The installation of, and ongoing preservation and maintenance of plant materials on a lot to enhance the environmental and visual characteristics of commercial, industrial and residential property and neighborhoods.

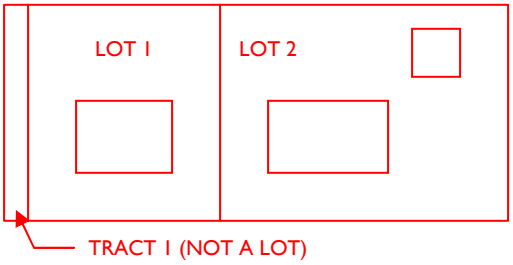
93. **Laundry Agency:** A structure used for the washing and drying of clothes for business purposes.

94. **Loading and Unloading Space:** A permanently striped and designated temporary parking space measuring not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height to be used by commercial vehicles for the loading and unloading of merchandise and located on the same lot as the principal commercial or industrial building which is accessible to a street or alley.

95. **Lodging House:** A building where lodging only is provided for compensation to three (3) or more persons, but not exceeding twenty (20) persons.

96. **Loft:** The floor placed between the roof and the floor of the uppermost story of a single family detached building, the floor area of which is not more than one-third of the of the floor area of the story or room in which it is placed.

97. **Lot:** A legally created parcel of land, under one (1) ownership, of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required by these regulations.

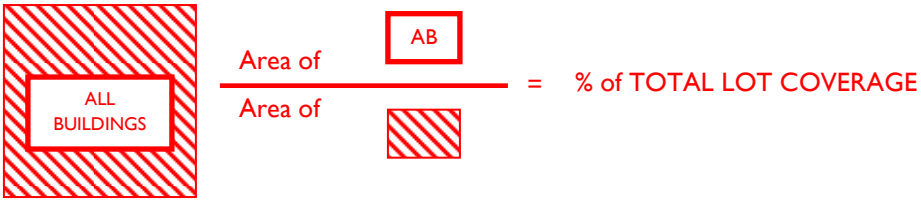


98. **Lot Area:** The area within the lot lines of a lot.

99. **Lot, Corner:**
    a. A lot which has an interior angle of one hundred thirty-five (135) degrees or less at the intersection of two (2) street lines, or

    b. A lot abutting upon a curved street is considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of one hundred thirty-five (135) degrees or less.

100. **Lot Coverage:** The percentage of the area of a lot which is occupied by all buildings or other covered structures. Also see Floor Area Ratio.

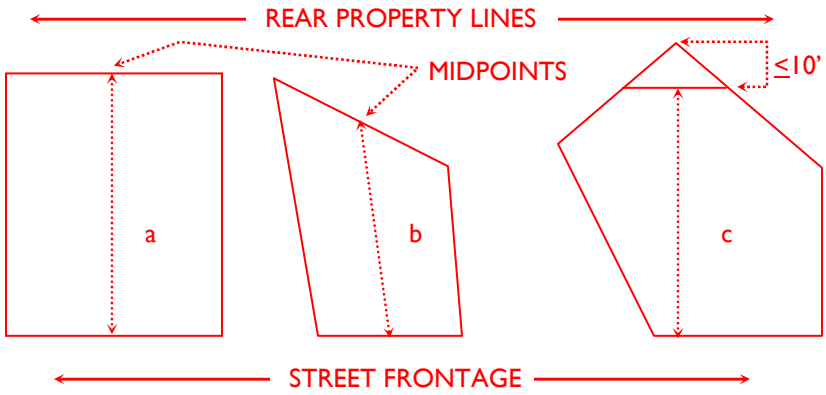


101. **Lot Depth:**

    a. For lots that have front and rear lot lines which are parallel, the depth is measured as the shortest horizontal distance between each lot line.

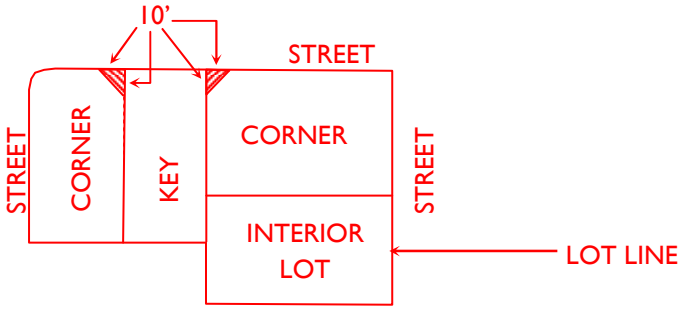
    b. For lots that have front and rear lot lines which are not parallel, the depth is measured as the shortest horizontal distance between the midpoint of the front lot line and midpoint of the rear lot line.

c. For lots that are triangular or multi-angular in shape, the depth is measured as the shortest horizontal distance between the front lot line and a line within the lot that is perpendicular and not more then ten (10) feet away from the triangular point of the rear lot angle.



102. **Lot, Flag:** A lot not fronting on or abutting a public road and where access to the public road is by a narrow strip of private access.

103. **Lot, Key**: A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and fronting on the street which forms the side boundary of the corner lot. A ten (10) foot visibility triangle is required to be maintained along the rear of the corner lot as illustrated below.



104. **Lot Line:** Any line bounding a lot.

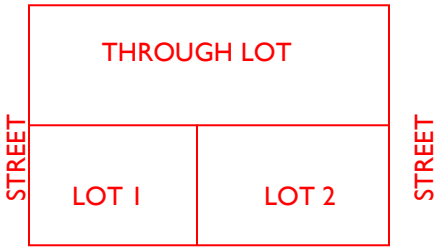
105. **Lot Line, Front:** The boundary of a lot which separates the lot from the street; and in the case of the corner lot, the front lot line is the shorter of the two (2) lot lines separating the lot from the streets. Where these lot lines are equal or within fifteen (15) feet of being equal, either lot line may be designated the front lot line but not both.

106. **Lot Line, Rear:** The boundary of a lot which is most distant from, and is, or is most nearly, parallel to the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

107. **Lot Line, Side:** The boundary of a lot which is not a front lot line or a rear lot line.

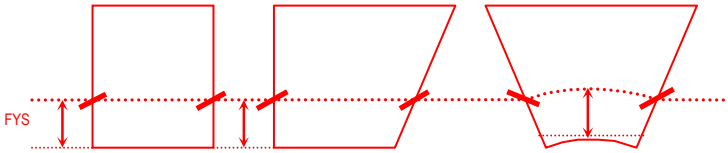
108. **Lot of Record:** Any lot which is part of an approved subdivision plat which has been duly approved and recorded with the Maricopa County Recorder; or any lot which has been surveyed, deeded, recorded, and otherwise legally established prior to December 10, 1994 shall be considered a legal lot of record. A building permit may be issued, in conformance with the Zoning Ordinance, for a legal lot of record providing that access has been perfected.

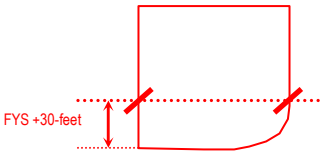
109. **Lot, Through:** A lot having a pair of opposite lot lines abutting two (2) streets, and which is not a corner lot. On such a lot, both lot lines are front lot lines.



110. **Lot Width:** The distance between side lot lines measured at the required minimum front yard line parallel to the street or street chord for:
   a. Rectangular lots,
   b. Lots having side lot lines not parallel, and
   c. Lots on the outside of the curve of a street,

   Also, the distance between side lot lines measured thirty (30) feet behind the required minimum front yard line parallel to the street or street chord for Lots on the inside of the curve of a street.





111. **Manufactured Home:** a structure built on or after June 15, 1976, that is eight or more feet wide and forty or more feet long, has a permanent chassis, is transportable in one of more sections, is equipped with complete plumbing, heating, and electrical systems from the factory, and is designed to be used with or without a permanent foundation for residential occupancy when connected to on-site utilities. Manufactured homes are built to the united states department of housing and urban development manufactured home construction and safety standards.*Ord. 1166

112. **Manufacturing:** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

113. **Mausoleum:** A building containing above-ground tombs.

114. **Medical Marijuana:** Those portions of the plant of the genus cannabis administered and used by a registered qualifying patient, as that term is defined in A.R.S. Section 36-2801, solely for the purpose of treating or alleviating the patient's debilitating medical condition or symptoms associated with that debilitating medical condition. 👁

115. **Medical Marijuana Designated Caregiver Cultivation Site:** The cultivation of medical marijuana by a registered designated caregiver for a registered qualifying patient, pursuant to A.R.S. §36-2804.04(A)(7). 🕯

116. **Medical Marijuana Dispensary:** A not-for-profit facility that, pursuant to A.R.S. §36-2804, is registered with and certified by the Arizona Department of Health Services to acquire, possess, cultivate, manufacture or infuse, deliver, transfer, transport, supply, sell or dispense medical marijuana or related supplies and educational materials to cardholders, as that term is defined in A.R.S. §36-2801. 👁

117. **Medical Marijuana Facilities:** Medical marijuana dispensaries, and medical marijuana designated caregiver cultivation sites. ☆ 👁 🕯

118. **Medical Marijuana Off-Site Cultivation Site:** The enclosed, locked facility identified by a medical marijuana dispensary pursuant to A.R.S. Section 36-2806 (E), where the medical marijuana dispensed by said dispensary is grown or stored. 👁 🕯

119. **Merchandise:** Any new or used object, ware~~s~~, good~~s~~, commodity, amusement~~s~~, food concession~~s~~, or service~~s~~ bought and sold for profit.

120. **Mini-Warehouse:** A building or group of buildings divided into separate compartments used to meet the temporary storage needs of small businesses, apartment dwellers, and other residential uses; and may include refrigerated facilities.

121. **Mobile Home Park:** Any parcel of land upon which two (2) or more mobile homes are occupied for dwelling or sleeping purposes regardless whether or not there is a cost for such accommodations.

122. **Mobile Home Space:** A plot of land within a mobile home park or travel trailer park designed to accommodate one (1) mobile home or travel trailer and its accessory structures including carports or other off-street parking areas, storage lockers, ramadas, cabanas, patios, patio covers, awnings and similar appurtenances.

123. **Mobile Home Subdivision:** A residential subdivision designed and intended to be used exclusively for mobile homes.

124. **Modular Home:** Also referred to as a factory-built building, is a residential or non-residential building which is either wholly or in substantial part manufactured at an off-site location and set on a permanent foundation and connected to required utilities. Modular homes are built to the international code council international building code standards. * Ord. 1166

125. **Motel**: A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly to the room from the outside of the building adjacent to a garage or parking space located on the lot and designed, used, or intended to be rented for compensation. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks, recreation vehicle parks, or travel trailer parks.

126. **Nonconforming Lot:** A lot, the area, dimensions or locations of which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the Zoning Ordinance.

127. **Non-Chartered Financial Services**" means a business, other than a state or federally chartered bank, credit union, mortgage lender or savings and loan association that offers check cashing services and loans for payment of a percentage fee. Specifically included is check cashing businesses that charge a percentage fee for cashing a check or negotiable instrument, "pay day" businesses that make loans upon assignments of wages received or to be received, or businesses that function as deferred presentment services.

128. **Nonconforming Use:** The lawful use of any building, lot, parcel or tract of land existing at the time this Ordinance, or amendments thereto, became effective which does not conform to the use regulations of the zoning district in which it is located. Provisions for Nonconforming Uses are found in Article 14-26.

129. **Nursing Home:** An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

👁 Ord. 1084/2-11
🕯 Ord. 1085/4-11
*Ord. 1166/11-16

130. **Open Space:** Any parcel or are of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

131. **Outer Court:** An open area, unobstructed from the ground to the sky, which is bounded on not more than three (3) sides by the exterior walls of one (1) or more buildings and the parking area or street. ⚐

132. **Outside Storage:** Any specific and/or miscellaneous equipment, supplies, containers, materials, products or provisions which are, either on a temporary, periodic or permanent basis, located either singularly or in accumulation outside the exterior walls of any building or structure, or placed under a roofed structure with no walls (such as a carport). Included in this definition shall be five (5) or more company owned or fleet vehicles.

133. **Park:** A tract of land, designated and used by the public for active and passive recreation.

134. **Park Model:** A structure built on a single chassis, mounted on wheels, and designed to be connected to utilities for operation of installed fixtures and appliances. A park model has a gross trailer area of not less than three hundred twenty square feet and not more than four hundred square feet when it is set up. ***Ord. 1166**

135. **Park, Pocket:** A small park which is generally created on a building lot or an irregular lot generally consisting of a children's playground, monuments, or art projects.

136. **Parking Lot:** A parcel of land or portion thereof improved to Town Parking Standards and used for off-street parking purposes.

137. **Parking Space:** A dust free permanently surfaced area, enclosed or unenclosed, bounded by a driveway connecting the parking space to a street or alley that permits ingress and egress of vehicles.

138. **Patio Home:** A single story dwelling unit that shares at least one exterior wall and has a back patio but not necessary in the rear yard.

139. **Pawn Shop:** An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

140. **Permitted Use:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

141. **Pre-Fabricated or Component Building:** A residence or building that is factory pre-designed and engineered, and shipped from the factory to be assembled on site. Designed to be used only with a permanent foundation when connected to the required utilities.

142. **Premises:** A parcel or lot and all buildings constructed thereon.

143. **Prohibited Use:** A use that is not permitted in a zoning district.

144. **Promotional Banner:** A temporary sign that carries a message regarding a special event or function which is of general interest.

145. **Race Track:** A purpose-built facility for racing of animals, automobiles, motorcycles or athletes. A race track may also feature grandstands or concourses.

146. **Radio and Television Store:** A store where the primary business is selling radios, televisions and other small electronic devices.

147. **Recreation Facility:** Recreational facility operated as a business and open to the general public for a fee.

⚐ Ord. 1106/5-12 *Ord. 1166-11/16

148. **Recreational Vehicle:** A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use, which is self-propelled, towed, or carried by another vehicle. This definition includes motor homes, van conversions, truck campers, tent or camping trailers, and travel trailers not to exceed eight (8) feet in width and forty five (45) feet in length.

149. **Rehabilitation and Treatment Center:** An institution providing inpatient, residential, or outpatient psychological, medical or psycho-social services to treat and rehabilitate recovery for persons suffering from addictive disorders such as drug addiction, eating disorders, sex addiction and alcohol addictions. ☆Ord. 1088/6-11

150. **Religious Assembly:** Facilities for worship and other religious ceremonies, with incidental religious education, religious bookstores, rectories and parsonages, offices, social services, day care and community programs.

151. **Residential Office:** A low impact use such as offices including dental, profession, architect, lawyer, doctor offices.

152. **Resort:** A facility for transient guests where the primary attraction is generally recreational features or activities.

153. **Restaurant:** An establishment where food and drink is prepared served and consumed primarily within the principal building.

154. **Right-Of-Way:** A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, sidewalk, railroad, electric transmission lines, pipeline, waterline, sanitary storm sewer and other similar uses. Generally, the right of one to pass over the property of another**.**

155. **Roping Arena:** An enclosed area, with or without a roof, for the practicing of roping skills on cattle or goats.

156. **Sale:** Any attempt to sell or offer to transfer ownership of merchandise through any means of exchange including but not limited to barter, trade or monetary compensation.

157. **School:** An institution of learning, such as elementary and secondary schools, colleges and universities, which offers instruction in several branches of learning and study, but not including business colleges, nursery schools, art/dancing/vocal/instrumental schools, riding academies, or trade or vocational schools.

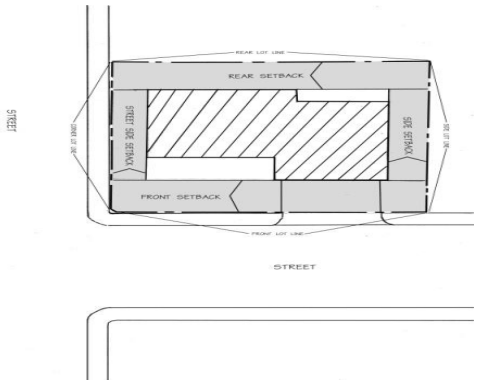
158. **Screening:** A method of visually shielding or obscuring one (1) abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

159. **Seasonal Produce Stands:** A small temporary structure that is used to sell fresh produce. The produce is limited to vegetables, fruits and herbs that are grown on the property where the sell is to take place.

160. **Seasonal Temporary Use:** Uses such as Christmas tree sales at Christmas and pumpkin sales at Halloween lasting no more than thirty (30) days.

161. **Service Station:** A building or use devoted to the retail sale of fuels, lubricants, and other supplies for motor vehicles, including minor repair activities which are subordinate to the sale of petroleum products.

162. **Setback:** The minimum horizontal distance between a lot line and nearest point of a building, structure or permitted use, located on a lot.



163. **Side, Private**: Concrete pedestrian paths, porches or open vestibules that are adjacent to commercial structures but not located in the Town right-of-way.

164. **Sign**: Any device for visual communication, including any structure or natural object or part thereof that is used for the purpose of attracting the attention of the public. This definition does not include any flag, badge or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization.

165. **Special Event:** Any organized activity or celebration for members of the general public or a particular group.

166. **Specified Sexual Activities:** Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

167. **Specified Anatomical Areas:** Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

168. **Storage:** Place or a space for storing items.

169. **Storage Lot:** A lot on which vehicles, equipment or material are stored.

170. **Story**: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the surface of such floor and the ceiling or roof above it.

171. **Story, First**: The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four feet (4') below grade, as defined herein, for more than fifty percent (50%) of the total perimeter, or more than eight feet (8') below grade, as defined herein, at any point.

172. **Street:** For the purposes of this chapter a street is defined as follows:

a. Street, Public: Property which has been dedicated to the public and accepted by the Town, County, or State for the purpose of providing access ways and utility corridors, as well as attendant structures and landscaping as required or provided by the Town.

b. Street, Private: Property which has been reserved as private access ways as indicated on a Subdivision Plat which has been duly approved. Private streets shall be constructed in accordance with the standards adopted by the Town of Wickenburg for public streets, and maintained by the owners of said street in accordance with a schedule approved by the Town Council.

c. Street, Small Tract Patent Easement: An access and utility corridor which has been reserved for public use by the United States of America.

d. Street, Width: Includes all land within the right-of-way whether improved or unimproved.

173. **Street Line:** The boundary which separates the right-of-way of a street from the abutting property, also called the front property line of each lot.

174. **Structural Alteration:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or exterior walls.

175. **Structure:** Anything constructed or erected which requires location on the ground or attached to something having location on the ground, but not including tents, vehicles, travel trailers or mobile homes.

176. **Shopping Center, Large:** A retail store of sixty-five thousand (65,000) square feet or more. ⚐

177. **Swap Meet:** An outdoor sale or place of commercial activity which may also be known as a flea market, park and swap or other such reference which is open to the public, located outside of a wholly enclosed building and where merchandise is offered for sale, trade, exchange or barter.

178. **Tattoo Parlor:** A commercial use involving the marking of skin of persons with a design by a process of pricking or ingraining an indelible pigment, or by the raising scars, or similar method.

179. **Temporary Building:** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure erected has ceased.

180. **Temporary Use:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

181. **Theater:** A building or part of a building devoted to showing motion pictures, or for dramatic, musical of live performances.

182. **Tiny Home**: A single family dwelling or manufactured home consisting of a maximum of 400 square feet in size. Designed to be used with or without a permanent foundation and connected to the required utilities. *Ord. 1166

183. **Town:** Town of Wickenburg

184. **Townhome:** A one (1) family dwelling unit, with a private entrance, which is part of a structure whose dwellings units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

185. **Tract Home:** A dwelling in a residential development containing houses similar in size and appearance.

186. **Travel Trailer:** A towed vehicle that is a temporary dwelling and sleeping facility not exceeding eight (8) feet in body width or more than forty (40) feet in length.

187. **Travel Trailer Park:** Any parcel of land upon which two (2) or more travel trailers for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodations.

⚐ Ord. 1106/5-12 *Ord. 1166/11-16

188. **Travel Trailer Space:** A plot of ground within a mobile home park or travel trailer park designed for the accommodation of one travel trailer together with its accessory structures including carports or other off-street parking areas, storage lockers, ramadas, cabanas, patios, patio covers, awnings and similar appurtenances.

189. **Turn Out/Pasture:** An enclosed area for the relaxation, exercise and grazing of horses.

190. **Use:** The purpose or purposes, for which land or a building is occupied, maintained, arranged, designed or intended.

191. **Use, Accessory:** A use which is customarily incidental and subordinate to the principal use of a lot or a building, including servants or caretakers quarters, and located on the same lot therewith.

192. **Use, Principal:** The main use of land or a building as distinguished from an accessory use.

193. **Variance:** A request to allow a deviation from a development standard required by the Zoning Ordinance.

194. **Vendor:** Any person or corporation engaged in the advertisement or sale of any merchandise or service.

195. **Yard:** The open space at grade level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the principal building is to be used; however, on any lot wherein a setback line has been established by the regulations of this Ordinance for any street abutting the lot, such measurement is to be taken from the principal building to the setback line. See "Yard, Required."

196. **Yard, Front:** A yard extending across the front width of a lot and being the minimum horizontal distance between the street line and the principal building or any projection, other than steps, unenclosed balconies and unenclosed porches. The front yard of a corner lot is the yard adjacent to the designated front lot line.

197. **Yard, Rear:** The area bounded by the side lot lines and between the rear lot line and the rear of the principal building and in all cases the rear yard is opposite from the front yard.

198. **Yard, Required:** The minimum area created by the setback requirements of this ordinance for front, rear, and side yards. The area remaining of the lot after setbacks are placed creates the "buildable area."

199. **Yard Sale:** Also called garage sale or moving sale. The occasional sale of surplus personal property held on premises by the owner or occupant of a lot.

200. **Yard, Side:** The area bounded by the front and rear lot lines and the side lot line and the side of the principal building minus the area calculated for the front and rear yards and any projection, other than steps, unenclosed balconies or unenclosed porches. An interior side yard is defined as the side yard adjacent to a common lot line.

201. **Zoning Administrator:** The official responsible for enforcement of the Zoning Ordinance.

202. **Zoning District:** Any Section as shown on the Zoning District Map of the Town for which the regulations governing the use of buildings and premises or the height and area of buildings are uniform.

CHAPTER 15 FLOODPLAIN REGULATIONS
(Effective July 7, 2014)

ARTICLE 15-1 IN GENERAL

15-1-1 Statutory Authorization
15-1-2 Adoption of Flood Insurance Maps and Study for Property Located in the Town of Wickenburg in Maricopa County
15-1-3 Adoption of Floodplain Regulations for Property Located in the Town of Wickenburg in Maricopa County
15-1-4 Adoption of Flood Insurance Maps and Study for Property Located in the Town of Wickenburg in Yavapai County
15-1-5 Adoption of Floodplain Regulations for Property Located in Wickenburg in Yavapai County
15-1-6 Designation of Floodplain Management

SECTION 15-1-1 Statutory Authorization

In A.R.S. § 48-3610, the Arizona State Legislature enabled the Town to adopt regulations in conformance with A.R.S. § 48-3603 designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Town Council of the Town of Wickenburg, Arizona, does ordain as follows:

SECTION 15-1-2 Adoption of Flood Insurance Maps and Study for Property Located in the Town of Wickenburg in Maricopa County

Those public records entitled "Flood Insurance Study (FIS) for Maricopa County, Arizona and Incorporated Areas" and "Flood Insurance Rate Maps (FIRMS) for Maricopa County, Arizona and Incorporated Areas" dated October 16, 2013, 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 of the Town of Wickenburg in Maricopa County. The Special Flood Hazards 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.

SECTION 15-1-3 Adoption of Floodplain Regulations for Property Located in the Town of Wickenburg in Maricopa County

That public record designated as the "Floodplain Regulations for Maricopa County, June 25, 2014," 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 for property located in the Town of Wickenburg and in Maricopa County.

SECTION 15-1-4 Adoption of Flood Insurance Maps and Study for Property Located in the Town of Wickenburg in Yavapai County

Those public records entitled "Flood Insurance Study (FIS) for Yavapai County, Arizona and Incorporated Areas" and "Flood Insurance Rate Maps (FIRMS) for Yavapai County, Arizona and Incorporated Areas," dated September 3, 2010 and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the Town Clerk, area hereby adopted by reference as the basis for establishing the special flood hazard areas for floodplain management in the Town of Wickenburg in Yavapai County. 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

SECTION 15-1-5 Adoption of Floodplain Regulations for Property Located in Wickenburg in Yavapai County

That public record designated as the Yavapai County Flood Control District "Flood Damage Prevention Ordinance" dated November 1, 2010, 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 for property located in Wickenburg and in Yavapai County.

SECTION 15-1-6 **Designation of Floodplain Management**

The Town of Wickenburg delegates the responsibility of Floodplain Management for property located in the Town of Wickenburg and in Maricopa County to the Flood Control District of Maricopa County and for property located in the Town of Wickenburg and in Yavapai County to the Yavapai County Flood Control District as provided for in A.R.S. § 48-3610. The Community Development and Neighborhood Services Director is designated 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 the Yavapai County Flood Control District and will serve as the community point of contact on National Flood Insurance Program issues for County, State and Federal Officials.

Ordinance 1139 / 7-7-2014

CHAPTER 16 AIRPORTS*

Article 16-1 IN GENERAL

16-1-1 Definitions
16-1-2 General Rules And Regulations

Section 16-1-1 Definitions

All words and phrases used in this chapter shall have the following meaning, unless its context requires otherwise. All definitions contained within the Federal Aviation Act of 1958 and all amendments thereto are incorporated herein. All definitions shall be interpreted consistently with the Federal Aviation Act and amendments thereto.

A. "Aircraft" means a device that is used or intended to be used for flight in the air, including helicopters and ultralight vehicles.

B. "Airport" means all of the area comprising the Wickenburg Municipal Airport, as now existing or as the same may hereafter be expanded and developed and shall include all of its facilities. "Airport" shall include all airports owned or operated by the town.

C. "Council" means the town council of the Town of Wickenburg, Arizona.

D. "Director" means the town manager or that individual appointed as director by the town manager, ratified by the town council. The director shall have responsibility for superfixing the operation of the airport.

E. "Field Area" means that area used for aircraft taxiing, run up, take off, landing, tiedowns, loading, and unloading of passengers and baggage. Field area shall include all areas used by vehicles or pedestrians to gain access to any of the above, and shall include all additional areas designated by the director as a field area.

F. "Town" means the Town of Wickenburg, Arizona.

G. "Public Area" means all other airport areas not field areas, except those areas designated by a tenant or the director as non-public areas. The director shall have the power to overrule a tenant's designation of an area as a non-public area and may designate said area to be public.

H. "Ultralight Vehicle" means an aircraft that is used for manned operation in the air by a single occupant for recreational or sport purposes only, which does not have any U.S. or foreign airworthiness certificate; if unpowered, the aircraft weighs less than 155 pounds; if powered, the aircraft weighs less than 254 pounds empty, has a

* New Chapter 4/84

fuel capacity not exceeding five U.S. gallons, is not capable of more than fifty-five knots calibrated airspeed at full power in level flight, and has power-off stall speed which does not exceed twenty-four knots calibrated airspeed.

Sec. 16-1-2 General Rules and Regulations

A. The director may promulgate such rules, regulations, orders and instructions as are necessary in the administration of this chapter. He may post signs at the airport which state or apply such rules, regulations, orders or instructions. Each person on the airport shall comply with all rules, regulations and signs posted by the director pursuant to this chapter. Each member of the staff of the director, as a representative of the director, is empowered to require compliance with the provisions of this chapter and all rules and regulations issued by the director.

B. The airport shall be conducted as a public air facility for the promotion and accommodation of civil aviation and associated activities.

C. The airport shall be open for public use at such hours and subject to such restrictions as may be determined by the director.

D. The privilege of using an airport and its facilities shall be conditioned on the assumption of the user thereof of full responsibility and risk for such use, and the user therefore releases and agrees to hold the town and its officers and employees harmless, and to indemnify them from any liability or loss resulting from such use. The owners and operators of all aircraft based at the airport shall comply with all applicable provisions of Title 28, Chapter 12, Arizona Revised Statutes. The Town reserves the right to deny use of the airport to any person who is judged by the director to be endangering the public's safety, health and welfare. Persons regularly operating aircraft at the airport, including ultralights vehicles, shall carry and maintain in effect, liability insurance in an amount to be set by the airport director and shall not be less than $1,000,000.00 combined single limit for bodily injury and property damage. For purposes of this section, "regularly operating aircraft at the airport" shall mean a permanently based aircraft which is either hangared or has a monthly tie-down space permit agreement at the airport.

E. Except in case of emergency and except for special provisions pertaining to helicopters in Article 16-11 of this chapter, no person shall land any aircraft within the corporate limits of the town except upon a regularly established airport field at the airport.

Article 16-2 AIRCRAFT

16-2-1 Aircraft Operations
16-2-2 Aircraft Accident Procedures

Section 16-2-1 Aircraft Operations

A. No person shall conduct any aircraft operation to, on, from or over the airport except in conformity with all Federal Aviation Administration regulations, the applicable provisions of Arizona Revised Statutes, Title 28, Chapter 12, this chapter, and rules and regulations promulgated by the director.

B. No person shall operate any aircraft unless he holds a valid, current student pilot, private pilot or commercial pilot certificate or license with ratings appropriate to the type of aircraft operated and conditions under which they are operating. Reciprocal certificates issued by foreign governments are acceptable if the authorization contained in the certificates are comparable to the domestic certificates mentioned and are so accepted by the Federal Aviation Administration. If no pilot certificate or license is required by the Federal Aviation Administration in order to operate an aircraft, such as an ultralight vehicle, the aircraft pilot shall be the holder of a certificate or license appropriate to some type of aircraft for which a pilot's certificate or license is required, in order that the safety of others using the airport may be assured.

C. No person shall take off or land an aircraft on the airport except on a hard surface area, unless otherwise authorized by the director.

D. All aircraft traffic shall conform to the established traffic pattern as approved by the director and posted at the airport. Based helicopter operators will submit traffic patterns to the director for approval.

E. No persons shall park an aircraft on any runway or taxiway at the airport.

F. No person shall park or store an aircraft at the airport except in areas designated by the director.

G. Preventative maintenance work, as defined in Title 14, Part 43, Appendix A(c), Code of Federal Regulations, may be performed at the airport tiedown areas by the owner or operator of the aircraft. Aircraft owners who possess current mechanic ratings such as A&P and A&I may do additional work in the tiedown areas subject to the approval of the director. All other aircraft maintenance, rebuilding, and alterations shall be performed only in areas designated by the director.

H. No person shall conduct experimental flight or ground demonstrations on the airport without prior permission of the director and Federal Aviation Administration approval.

I. No person shall take any aircraft from the landing area or hangars or operate such aircraft while under the influence of intoxicating liquor or a dangerous drug.

J. No person shall board or disembark from any aircraft on a runway or in the take-off or landing area except in an emergency or with prior approval of the director.

K. Persons parking transient aircraft on terminal transient areas shall register their aircraft with the director or his representative as soon as possible after landing at the airport.

L. All owners and operators who desire to base their aircraft at the airport shall register their aircraft with the director or his representative prior to beginning operations. Any change in ownership of the aircraft shall be reported immediately.

M. No person shall leave an aircraft unattended unless it is properly tied down or placed in a hangar.

N. No engine in an aircraft shall be started or run without a competent person at the engine controls, and unless blocks have been placed in front of the wheels or the aircraft has adequate parking brakes. No aircraft engine shall be operated in such manner as to endanger life or property.

O. No aircraft shall be operated in, or taxied into or out of, a hangar.

P. If the director believes the conditions at the airport, or any portion thereof, are unfavorable for aircraft operations, he may close the airport, or such portions thereof, using applicable Federal Aviation Administration procedures, as appropriate.

Q. No aircraft capable of movement on the ground shall be operated on the airport unless it is equipped with wheels and wheel brakes, except with the permission of the director.

R. No aircraft shall be permitted to remain on any part of the landing or take-off areas for the purpose of repairs.

S. All aircraft shall be taxied at slow and reasonable speeds and shall not be taxied onto a runway without first stopping and waiting for any approaching aircraft preparing to land.

T. No person shall, without the owner’s permission, interfere or tamper with an aircraft parked or stored at the airport.

U. No person shall move an aircraft on the airport in a negligent or reckless manner.

V. No person shall start or taxi any aircraft on the airport in a place where the air or exhaust blast is likely to cause injuries to persons or property. If the aircraft cannot be taxied without violating this paragraph, the operator must have it towed to the desirable destination.

W. No person in any aircraft shall cause or permit to be thrown out, discharged from or dropped within the town limits, any dust, spray, object or thing except loose water or loose sand ballast when absolutely essential to the safety of the occupants of the aircraft and except as herein provided; except that aircraft used for dusting or spraying on agricultural lands for agricultural purposes may dust or spray agricultural crops.

Section 16-2-2 Aircraft Accident Procedures

A. Persons involved in aircraft accidents occurring at the airport shall make a full report thereof to the director or his representative within twenty-four hours after such accident. The report must include the name and address of the persons involved. For purposes of this section, an aircraft accident shall include any event involving an aircraft and a motor vehicle, person or stationary object which results in property damage, personal injury or death.

B. Any person damaging property on the airport by means of contact with aircraft shall report such damages to the airport office immediately and shall be fully responsible to the town for costs of repairs.

C. Every pilot and aircraft owner shall be responsible for the prompt removal of his disabled aircraft or parts thereof, as directed by the director or his representative, subject to accident investigation requirements.

Article 16-3 MOTOR VEHICLES

16-3-1 General Regulations
16-3-2 Parking

Section 16-3-1 General Regulations

A. No motor vehicle shall be operated on the airport if it is so constructed, equipped or loaded as to endanger persons or property.

B. Each operator of a motor vehicle involved in an accident between that vehicle and an aircraft, or in any other motor vehicle accident on the airport that results in personal injury or in a total property damage of more than fifty dollars shall make a full report thereof to the director or his representative as soon as possible after the accident. The report must include the name and address of the person reporting.

C. No person shall operate any motor vehicle on the airport in violation of this chapter, or rules and regulations promulgated and posted by the director or the laws of the State of Arizona.

D. No person shall operate a motor vehicle on the airport in a negligent or reckless manner, or in excess of posted speed limits.

E. No person shall operate any motor vehicle on the airport while under the influence of intoxicating liquor, or any narcotic or habit-forming drug.

F. No motor vehicle shall be permitted on taxiways, runways or operational areas except authorized maintenance or service vehicles, without prior permission of the director or his representative.

G. All motor vehicles shall be operated only in those areas of the airport as may be authorized from time to time by the director and then under the rules and regulations established therefor.

H. Operators of motor vehicles on the field area shall yield the right-of-way to taxiing aircraft.

I. All motor vehicles on the field area shall pass to the rear of aircraft whose engines are running.

J. When backing gasoline tenders, the driver shall remain in the vehicle and shall not stand on the running board or fender. Gasoline tenders shall at no time be so positioned as to prevent their rapid removal.

K. Except as authorized by the director, no person shall clean or make any repairs to motor vehicles anywhere on the airport other than designated shop areas, except those minor repairs necessary to remove such motor vehicle to a proper location.

Sec. 16-3-2 <u>Parking</u>

A. No person shall park or stand a motor vehicle on the airport except in an area specifically designated therefor.

B. No person shall park a motor vehicle in any posted area on the airport for a period longer than that prescribed in the town.

C. No person shall park a vehicle in a restricted or reserved area on the airport unless he displays, in the manner prescribed by the director, a parking permit issued by the director for that area.

D. No person shall double-park a motor vehicle on any road on the airport.

E. No person shall abandon a motor vehicle on the airport.

F. No person shall park or stand a motor vehicle at any place on the airport in violation of any sign posted by the director.

G. No person shall park or stand a motor vehicle within fifteen feet of a fire hydrant on the airport, or park in such a manner as to block any fire gate or entrance, road or taxiway.

H. No person shall park a motor vehicle in any marked space in such manner as to occupy more than one space.

I. No person shall park a motor vehicle in individual storage hangars, aircraft shelters or tiedown spaces unless permitted by the owner or lessee of said structure or space.

J. No person shall move, interfere, or tamper with any motor vehicle, or take or use any motor vehicle part, instrument or tool thereof, without the permission of the owner or satisfactory evidence of the right to do so duly presented to the director or his representative.

K. The director, or his agent, may remove, at the owner's expense, any motor vehicle which is parked on the airport in violation of this chapter. The vehicle shall be subject to a lien for the cost of removal.

Article 16-4 <u>OFFENSES</u>

16-4-1 Nuisances, Littering, Vandalism Prohibited
16-4-2 Bicycles
16-4-3 Horseback Riding
16-4-4 Hunting
16-4-5 Solicitation and Advertising
16-4-6 Animals
16-4-7 Loitering
16-4-8 Entrance Into Restricted Areas
16-4-9 Alcoholic Beverages

Section 16-4-1 Nuisances, Littering, Vandalism Prohibited

A. It shall be unlawful to commit any act or to omit to act in such a way as to create a nuisance on the airport.

B. It shall be unlawful for any person to dispose of garbage, papers, refuse or other such material on the airport except in receptacles provided for that purpose.

C. It shall be unlawful for any person to destroy, injure, deface, or disturb any building, sign equipment, marker or other surface, tree, flower, lawn or other public property on the airport.

D. It shall be unlawful for any person to use a restroom other than in a clean and sanitary manner.

E. It shall be unlawful for any person to alter, make additions to, or erect any building or sign or make any excavations on the airport without the permission of the director, subject to lease provisions.

F. It shall be unlawful for any person to willfully abandon any personal property on the airport. A person has abandoned personal property when it remains unattended and without written permission of the director for a period of thirty days or more.

Sec. 16-4-2 Bicycles

It shall be unlawful to operate a bicycle at the airport except in those areas as may be authorized from time to time by the director and then under rules and regulations established therefor.

Sec. 16-4-3 Horseback Riding

It shall be unlawful for any person to ride horseback on the airport without permission of the director.

Sec. 16-4-4 Hunting

No person shall hunt, pursue, trap, catch, injure or kill any bird or animal on the airport without authorization of the director.

Sec. 16-4-5 Solicitation and Advertising

A. It shall be unlawful for any person to solicit fares, alms or funds for any purpose on the airport without permission of the director.

B. It shall be unlawful for any person to post, distribute or display signs, advertisements, circulars or other printed or written manner in a public area of the airport except in locations designated by the director.

Sec. 16-4-6 Animals

It shall be unlawful for any person to enter the airport with a dog or other domestic animal unless that animal is kept restrained by a leash or is confined so as to be completely under control.

Sec. 16-4-7 Loitering

It shall be unlawful for any person to loiter or remain on any part of the airport more than the time reasonably necessary to complete airport related business.

Sec. 16-4-8 Entrance Into Restricted Areas

It shall be unlawful for any unauthorized person to enter any restricted area posted as being closed to the public.

Sec. 16-4-9 Alcoholic Beverages

It shall be unlawful for any person to drink alcoholic beverages in the terminal building lobby.

Article 16-5 COMMERCIAL PHOTOGRAPHY

16-5-1 Unauthorized Commercial Photography Prohibited
16-5-2 Authorization by Director

Section 16-5-1 Unauthorized Commercial Photography Prohibited

It shall be unlawful for any person to take a still, motion or sound picture on the airport for commercial purposed without the permission of the director and as authorized in Section 16-5-2 herein.

Sec. 16-5-2 Authorization by Director

The director may allow any of the following to take pictures on the airport for commercial purposes:

A. Professional photographers and motion picture cameramen photographing events on the airport as representatives of news concerns or bona fide news publications.

B. Professional photographers and motion picture cameramen photographing events at the airport, for non-profit exhibit, to stimulate interest in air commerce or travel or for non-profit educational purposes.

C. Professional photographers photographing scenes on the airport for general artistic purposes.

Article 16-6 USE OF ROADS AND WALKS

16-6-1 In General
16-6-2 Obstructions
16-6-3 Picket Lines

Section 16-6-1 In General

It shall be unlawful for any person to travel on the airport except on a road, walk or other place provided for the kind of travel he is doing.

Sec. 16-6-2 Obstructions

It shall be unlawful for any person to occupy or place and object on the road or walk on the airport in a manner that hinders or obstructs its proper use.

Sec. 16-6-3 Picket Lines

It shall be unlawful for any person to walk in a picket line as a picket or take part in a labor or other public demonstration on any part of the airport except in a place specifically assigned by the director for picket lines or other public demonstrations.

Article 16-7 USE OF GATE POSITIONS

16-7-1 Authorization Required
16-7-2 Passengers
16-7-3 Explosives; Flammable Materials
16-7-4 Repairs

Section 16-7-1 Authorization Required

It shall be unlawful for any person to use an aircraft gate position on the airport unless he has been authorized to use it.

Sec. 16-7-2 Passengers

Except in an emergency, it shall be unlawful for any person to emplane or deplane passengers on the airport in an area that has not been established for that purpose by the director.

Sec. 16-7-3 Explosives; Flammable Materials

It shall be unlawful for any person to park an aircraft which is carrying explosives or flammable materials, nor shall he load or unload such items on or from such aircraft, other than in areas designated by the director.

Sec. 16-7-4 Repairs

It shall be unlawful for any person to repair an aircraft while it is parked at the gate position except for minor adjustments.

Article 16-8 FIRE HAZARDS AND FUELING OPERATIONS

16-8-1 Fuel Deliver and Dispensing
16-8-2 Cleaning Fluids
16-8-3 Open Flame Operations
16-8-4 Smoking
16-8-5 Storage
16-8-6 Apron Surface Areas and Floor Surface
16-8-7 Doping
16-8-8 Fueling Operations
16-8-9 Uniform Fire Code
16-8-10 Inspections

Section 16-8-1 Fuel Delivery and Dispensing

A. It shall be unlawful for any person to transport or deliver aviation fuels on the airport unless he is the holder of a valid permit with the town authorizing such activity.

B. It shall be unlawful for any person to dispense fuels into an aircraft unless he is the holder of a valid permit with the town authorizing such activity, except after hours when said authorized personnel are not available. Any person self-fueling an aircraft after hours shall comply with the requirements of Section 16-8-8 of the Town Code.

Section 16-8-2 Cleaning Fluids

It shall be unlawful for any person to use a flammable or volatile liquid having a flash point of less than one hundred degrees Fahrenheit to clean an aircraft, aircraft engine, propeller or appliance in an aircraft hangar or similar type building, nor within fifty feet of another aircraft, building or hangar.

Section 16-8-3 Open Flame Operations

It shall be unlawful for any person to have in his possession an open flame, flame-producing device, or other source of ignition in any hangar or similar type of building except in locations approved by the director.

Section 16-8-4 Smoking

It shall be unlawful for any person to smoke on any apron or ramp, in any hangar or shop, in any aircraft or in any other place on the airport where smoking is specifically prohibited by the director.

Sec. 16-8-5 Storage

A. It shall be unlawful for any person to store or stock material or equipment on the airport in a manner that constitutes a fire hazard.

B. It shall be unlawful for any person to store any combustible materials, flammable liquids or other hazardous materials in an aircraft hanger or other building on the airport except in locations and containers approved by the Wickenburg fire department.

Sec. 16-8-6 Apron Surface Areas and Floor Surface

Each person to whom space on the airport is leased, assigned or made available for use shall keep the space free and clear of oil, grease, or other foreign materials that could cause a fire hazard or slippery or otherwise unsafe condition.

Sec. 16-8-7 Doping

A. It shall be unlawful for any person to conduct a doping process on the airport except in a properly designed fire resistive and ventilated room or building in which all lights, wiring, heating, ventilating equipment, switches, outlets and fixtures are approved for use in such hazardous areas, and in which all exit facilities are approved and maintained for such use, or except in an open area as designated by the director.

B. It shall be unlawful for any person to enter or work in a dope room while doping processes are being conducted unless he is wearing sparkproof shoes.

Sec. 16-8-8 Fueling Operations

A. It shall be unlawful for any person to fuel or defuel an aircraft on the airport while:

1. Its engine is running or is being warmed by applying external heat;

2. It is in a hanger or enclosed space;

3. Passengers are in the aircraft unless a passenger loading ramp is in place at the cabin door, the door is open, and a cabin attendant is at or near the door. A “no smoking” sign shall be displayed in the cabin and the rule enforced.

B. It shall be unlawful for any person to knowingly start the engine of an aircraft on the airport if there is any gasoline or other volatile flammable liquid on the ground beneath it of sufficient quality to constitute a hazard.

C. It shall be unlawful for any person to operate a radio transmitter or receiver, or switch electrical appliances on or off, in an aircraft on the airport while it is being fueled or defueled.

D. During the fueling of an aircraft on the airport, the dispensing apparatus and the aircraft shall both be grounded in accordance with orders instructions of the director.

E. Each person engaged in fueling or defueling on the airport shall exercise care to prevent the overflow of fuel, and shall have readily accessible and adequate fire extinguishers.

F. During the fueling or defueling of an aircraft on the airport, no person shall, within fifty feet of that aircraft, smoke or use any material that is likely to cause a spark or be a source of ignition.

G. Each hose, funnel or appurtenance used in fueling or defueling an aircraft on the airport shall be maintained in a safe, sound and non-leaking condition and must be properly grounded to prevent ignition of volatile liquids.

Sec. 16-8-9 Uniform Fire Code

All persons shall comply with the provisions of the most recently adopted Uniform Fire Code of the town.

Sec. 16-8-10 Inspections

The town fire chief or his duly authorized representatives shall inspect monthly, or as often as may be necessary, all buildings and premises for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread or endanger life or property from fire. All orders, notices or recommendations of the town fire chief shall be complied with by all persons without delay.

Article 16-9 OBLIGATION OF TENANTS

16-9-1 Use of Premises
16-9-2 Trash Containers
16-9-3 Storage of Equipment
16-9-4 Right of Inspection
16-9-5 Provisions Incorporated Into Lease Agreements

Section 16-9-1 Use of Premises

No lessee or sublessee of airport property shall knowingly allow that property to be used or occupied for any purpose prohibited by this chapter.

Sec. 16-9-2 Trash Containers

A. It shall be unlawful for any tenant, lessee, sublessee concessionaire or agent of any of them, doing business on the airport to keep uncovered trash containers on a sidewalk or road or in a public area of the airport.

B. It shall be unlawful for any person to operate a vehicle for hauling trash, dirt or any other material on the airport unless it is built to prevent its contents from dropping, sifting, leaking or otherwise escaping.

C. It shall be unlawful for any person to spill dirt or any other material from a vehicle operated on the airport.

Sec. 16-9-3 Storage of Equipment

It shall be unlawful for any lessee or sublessee of a hanger, shop facility or other operational area specified by the director on the airport to store or stack equipment or material in a manner to be a hazard to persons or property.

Sec. 16-9-4 Right of Inspection

The director, or his authorized representative, shall have the right at all reasonable times to inspect all areas under lease to or occupied by tenants.

Sec. 16-9-5 Provisions Incorporated Into Lease Agreements

The provisions of this chapter shall be deemed incorporated in every lease and sublease and violations of the provisions of this chapter or any rule or regulation issued pursuant to this chapter shall result in termination of said lease or sublease.

Article 16-10 COMMERCIAL OPERATIONS

16-10-1 Policy
16-10-2 Prohibitions
16-10-3 Definitions
16-10-4 Insurance Requirements for Commercial Operations

Section 16-10-1 Policy

As the operator and proprietor of the airport, on behalf of the citizens of the town, it is the policy and intent of the council:

A. To operate the airport in a businesslike manner with as little cost as possible to the taxpayer through the imposition of fair and reasonable rentals, fees and charges.

B. To provide for both private and commercial aviation at the airport to the extent practicable within physical, economical and environmental constraints.

C. To provide for the full range of on-base aeronautical support through private enterprise consistent with the need for the service and the availability of space and physical facilities.

D. To protect airport patrons and users form unsafe and inadequate aeronautical service and to maintain and preserve all airport facilities in a safe, secure, and orderly condition.

E. To promote fair competition and not expose those who have lawfully undertaken to provide commodities and services at the airport to irresponsible or unethical business or commercial activity on the airport.

F. To permit and provide adequate facilities for owner of general aviation aircraft to work on and service their own aircraft within such limits as may be imposed by this section or airport regulation for purposes of safety, preservation of airport facilities, and protection of the public interest.

G. To promote the utility, educational and recreational aspects of general aviation.

Sec. 16-10-2 Prohibitions

A. It is unlawful for any person to engage in any business or commercial activity on the airport without a lease approved by the council , or by a sublease from a duly authorized master lessee which is approved by the council. For the purposes off this article, a

"person" means any individual or group of individuals, including a company, partnership, corporation or other association. This prohibition shall apply to persons who use the airport as a base for conducting their activity but whose officer or other place of business is not situated on the airport.

B. This prohibition does not apply to:

1. Aircraft operations in which the flight originates and terminates elsewhere and the airport is utilized as a temporary stopping place for such purposes as landings, refueling or other aeronautical service, or the embarking or debarking of passengers, except in the case of charter or air taxi airlines.

2. Company or corporate-owned aircraft where personnel or products are transported free of charge, the trip being merely incidental to the company's principal business and not, in itself, a major enterprise for profit.

3. Casual or isolated transactions such as sales by the owner.

4. Pilot training and flight instruction, including rental of aircraft related to such training and instruction upon compliance with the following:

   a. Written approval of the airport director is received; and

   b. The person carrying on the activity has all necessary state and federal certifications and licenses for pilot training and flight instruction.

5. Rental of aircraft upon compliance with the following:

   a. Written approval of the airport director is received; and

   b. The person carrying on the activity meets all state and federal requirements.

Sec. 16-10-3 <u>Definitions</u>

For the purpose of this article, a "business or commercial activity" includes the following types of activities when done for hire, compensation or reward:

A. Retail sales of any goods, wares, merchandise or services.

B. Pilot training and flight instruction.

C. Sale, rental or charter of aircraft.

D. Air carrier and air taxi operations.

E. Sale of aviation petroleum products.

F. Sales or service of aircraft parts, avionics, instruments or other aircraft equipment.

G. Repair, maintenance, rebuilding, alteration or exchange of aircraft and aircraft engines, components or other parts.

H. Flying clubs.

Sec. 16-10-4 Insurance Requirements for Commercial Operations

The airport director may require insurance, including commercial insurance, from any commercial operation at the airport. Such insurance requirement shall be set by the airport director and shall be not less than $1,000,000.00 combined single limit coverage for bodily injury and property damage, and shall name the town as an additional insured. No lease entered into pursuant to this article shall become effective until proof of such insurance is filed in the office of the airport director. Any person conducting a commercial operation at the airport releases and agrees to hold the town and its officers and employees harmless and to indemnify them for any liability of loss resulting from such suit. The Town reserves the right to deny the use of the airport to any person who is judged by the director to be endangering the public safety, health and welfare.

Article 16-11 SPECIAL PROVISIONS PERTAINING TO HELICOPTERS

16-11-1 Use of Heliport Required; Permits for Use Other than at Heliports
16-11-2 Exceptions
16-11-3 Emergency Landings

Section 16-11-1 Use of Heliport Required; Permits for Use Other than at Heliports

A. Except as provided in Sections 16-11-2 and 16-11-3 herein, it shall be unlawful to take off or land in any area within the town limits in a helicopter, except on a regularly established heliport or landing place, without first obtaining a permit to do so form the chief of police. The chief of police may issue a permit if the following conditions are met:

1. The pilot is duly licensed by the Federal Aviation Administration.

2. The helicopter to be used is licensed by the Federal Aviation Administration.

3. The safety of lives of the inhabitants of the town will not be endangered by the proposed flight or landing.

4. The noise attendant upon the flight or landing will not be detrimental to the neighborhood.

5. Liability insurance in the amount of $1,000,000 combined single limit for bodily injury and property damage has been obtained and is in effect.

Sec. 16-11-2 Exceptions

A. Helicopter take-offs and landings for the purposes hereafter enumerated may be made without a permit issued by the chief of police provided all other conditions of Section 16-11-1 herein have been met.

1. A take-off or landing by an authorized representative of the news media.

2. A take-off or landing to assist in investigating an accident or to remove persons or property from the scene of an accident.

3. A take-off or landing to assist in a medical emergency.

4. A take-off or landing to assist the police department in any investigation being conducted by the police department.

Sec. 16-11-3 Emergency Landings

The provisions of Section 16-11-1 herein shall not apply to helicopter landings made necessary by a helicopter emergency.

Article 16-12 SPECIAL PROVISIONS PERTAINING TO ULTRALIGHT VEHICLES

16-12-1 Compliance with Provisions of this Chapter Required; Compliance with Federal Aviation Regulations Required
16-12-2 Separate Landing Field
16-12-3 Inspection Requirements
16-12-4 Hazardous Operations

Section 16-12-1 Compliance with the Provisions of this Chapter Required; Compliance with Federal Aviation Regulations Required

Persons operating ultralight vehicles as defined in Section 16-1-1 shall, in addition to the provisions of this article, comply with all other provisions of this chapter and of the Federal Aviation Regulations, Part 103.

Sec. 16-12-2 Separate Landing Field

The director may establish a separate landing field for use exclusively by ultralight vehicles. Such landing field shall be clearly marked and visible from the air at one hundred feet. If a separate landing field for ultralight vehicles is established, it shall be unlawful for ultralight vehicles to take-off or land at any landing field other than the landing field established for use by ultralight vehicles.

Sec. 16-12-3 Inspection Requirements

Any person operating an ultralight vehicle and using the airport shall, upon request, allow the director or his designee to inspect the vehicle to determine the applicability of this article.

Sec. 16-12-4 Hazardous Operations

No person may operate any ultralight vehicle in a manner that creates a hazard to other persons or property.

Article 16-13 RATES AND CHARGES

A schedule of rates and charges for use of the airport and its facilities shall be established by the council, and each person or organization subject to said rates and charges shall promptly pay the amounts due. A copy of such schedule shall be available at the airport office in the terminal building.

CHAPTER 18 MUNICIPAL CEMETERY Ord. 1097/11-11

Article 18-1 MUNICIPAL CEMETERY

18-1-1 Reaffirmation and Creation of Town Cemetery
18-1-2 Certain Past Transactions Affirmed
18-1-3 Future Burials, Interments, Disinterments and Sales of Cemetery Plots
18-1-4 Definitions
18-1-5 General Operations
18-1-6 Rules, Fees and Details of Operation
18-1-7 General Conditions
18-1-8 Plot Markers and Landscaping
18-1-9 Transfer of Plots
18-1-10 Opening and Closing of Graves
18-1-11 Ownership of Cemetery Plot
18-1-12 Additional Regulations
18-1-13 Headstone and Bench Placement Rules and Regulations
18-1-14 Lighting

Section 18-1-1 Reaffirmation and Creation of Town Cemetery

It is hereby reaffirmed, established and created, on a parcel of real property located on Kellis Road, a Municipal Cemetery which shall hereafter be known as Wickenburg Municipal Cemetery, the legal description hereof is on file in the Office of the Town Clerk, title thereto having derived from the United States of America by Patent Number 1050119 dated September 29, 1931.

It is hereby declared to be a nuisance and shall be unlawful for any person to bury the body of a human being within the corporate limits of the Town except in the Cemetery organized and conducted in conformity with the laws of the State of Arizona. (§9-499.01, §9-240(b), (11)(b), §32-2194)

Section 18-1-2 Certain Past Transactions Affirmed

All previous interments are hereby reaffirmed to be legal, as to their families and survivors, and any illegal or irregular transactions in respect to previous interments, shall be resolved between the Town and third parties at no cost to family and survivors.

Section 18-1-3 Future Burials, Interments, Disinterments and Sales of Cemetery Plots

No burials, plot sales nor interments shall be accomplished without the express, written permission of the Town Clerk, or his/her authorized representative upon providing him/her with all proper documentation. Disinterment may be accomplished only with a Final Exhumation Order from the Arizona Superior Court, Maricopa County, Arizona or through a State of Arizona Disinterment Permit.

Section 18-1-4 Definitions **Ordinance No. 1161

A. **"CASKET"** means a commercially made container or equivalent, constructed of wood, board, or metal, in which a human body is buried.

B. "**CEMETERY"** means the Wickenburg Municipal Cemetery.

C. **"CEMETERY DIRECTOR"** means the Town Manager or designee.

D. **"CERTIFICATE OF RIGHT OF INTERMENT"** means the right to be buried in a specific plot as issued by the town.

E. **"CONTRACTOR"** shall mean any person, firm or corporation or anyone engaged in placing, erecting, burying or repairing any memorial, or performing any work in the cemetery, other than an employee of the Town.

F. **"DISINTERMENT"** shall mean the removal of the entombed or buried remains of a deceased person which can only be done through a Final Exhumation Order of the Arizona Superior Court, Maricopa County, Arizona or State of Arizona Disinterment Permit.

G. "**GRAVE"/ "GRAVESITE"** has the same meaning as plot.

H. **"INTERMENT"** shall mean the disposition of human remains by burial or inurnment.

I. "**INTERMENT RIGHT"** shall mean the particular right to inter the remains of a deceased person in a specific interment space within the cemetery in accordance with a Certificate of Interment Right, subject to the limitations and regulations set forth herein.

J. "**INTERMENT SERVICES"** shall refer to the opening and closing of a particular interment space/plot located in the cemetery.

K. "**INTERMENT SPACE"** shall refer to the particular grave or niche within the cemetery to which a particular interment right relates.

L. **"INURNMENT"** means placement of created remains into a niche.

M. **"MEMORIAL"** shall mean any marker or structure upon or in any plot or niche, placed thereupon or therein or partially therein for the purpose of identification or in memory of the interred.

N. **"NICHE"** means space used, intended to be used, for inurnment of cremated human remains.

O. **"OUTER BURIAL CONTAINER"** shall refer to the rigid outer container used to surround a casket or a cremated remains container, and shall include the products commonly known as vaults and grave liners.

P. **"OWNER"** shall mean the legal possessor of a Certificate of Interment Right.

Q. **"PERPETUAL CARE"** shall mean that all plots for which interment rights are sold or transferred shall have "perpetual" care as herein defined, free of further cost to the purchaser after payment of the original purchase price.

R. **"PLOT"** means space in the cemetery used or intended to be used for the interment of human remains. the term includes and applies to one (1) or more adjoining graves/plots, and/or one (1) or more adjourning niches.

S. **"TOWN"** means the Town of Wickenburg and its successors and assigns.

T. **"WICKENBURG MUNICIPAL CEMETERY"** shall mean the area set aside, dedicated and platted for the interment of human remains.

Section 18-1-5 **General Operation** **Ord. 1161

A. Management

The cemetery is owned by the Town of Wickenburg and shall be managed by the Cemetery Director or his/her designee as provided by resolution, from time to time. The Cemetery Director, with approval of the Council, may enter into contractual agreements with third parties to perform all or portions of day-to-day operation of the cemetery, provided such contracts conform to the provisions of Chapter 4, Article 4-4 Purchasing of the Town Code.

B. Records

The Town Clerk shall be responsible for maintaining all records of sales of cemetery plots and shall issue documents of sales or conveyances to the purchasers and grantees thereof in the name of, and for the benefit of, the Town.

C. Accounting And Funds

The Finance Director shall be responsible for maintaining records of all income, whether from sales of cemetery plots, incidental and administrative charges, deposits or donations, and for all expenditures, whether actually paid or apportioned as between the Town's administrative staff, derived from, or expended in connection with, the operation of the cemetery. It is not necessarily anticipated that the income received from the abovementioned sources will be sufficient to allow for the cemetery to be self-supporting; therefore, Council is hereby authorized to appropriate additional funds for the operation and maintenance of the cemetery.

D. Resident Indigent Burials

All indigent burials are handled by Maricopa County through the local funeral homes.

E. Right to Select Cemetery Plot

The Town Manager/Cemetery Director or his/her designated representative shall have the exclusive right to select the site of a cemetery plot for the sale or conveyance of cemetery plots. Upon request of survivors and family members, efforts may be made to allow selections of cemetery plot sites provided, however, the Town reserves the exclusive right to select the site of a cemetery plot or plots for sales and conveyances.

F. Creation Of Additional Plots

The creation of additional plots at the cemetery is expressly prohibited except by the Town. No other entity, contractor or funeral home may authorize the enlargement, reduction, re-platting or change in any of the

Ord. 1097/11-11
**Ord. 1161/2-16

boundaries or conduct any grading in the cemetery or of any Section or Sections thereof, including the right to modify or change the locations of, or remove or re-grade, features, roads, drives, trees, shrubs, flowers, landscaping and walks without the written permission of the Cemetery Director.

G. Improvements At Cemetery

The Town shall have sole and exclusive authority with respect to the planting, sodding, surveying and all improvements within the cemetery grounds. Written authorization is required by the Cemetery Director prior to any improvements being performed. No tree, shrubs or bushes shall be planted on, near or adjacent to any cemetery plots. If any tree, shrub or plant, by means of its roots, branches, or otherwise, becomes detrimental to the interment space upon which it stands or any adjacent interment spaces or avenues, or if for any other reason its removal is deemed necessary, the Cemetery Director shall have the right to remove or require removal of such tree, shrub or plant, or any part thereof, or otherwise correct the existing condition. In the event of any such removal, neither the Town nor funeral home director shall have any obligation to replace the removed tree, shrub or plant.

H. Caskets and Alternative Containers

All ground interments shall be made in caskets or alterative containers. All such caskets or alternative containers shall be constructed from at least three-quarter inch (3/4") thick particle board of sufficient strength to support the weight of an adult human body. Alternatively, caskets or alternative containers constructed from cardboard, corrugated fiberboard, pressed paper or similar materials may be used if such caskets have been approved by the Cemetery Director after receipt of satisfactory proof by the funeral home that such casket has been adequately tested and shown to be of sufficient strength to support the weight of an adult human body. Effective for certificates of interment issued on or after March 18, 2016, alternative containers may be used to bury up to four (4) urns in one (1) gravesite. For sales of gravesites made prior to March 18, 2016, up to six (6) urns may be placed in one gravesite.

i. Option to Create Perpetual Care Funds

The Council, by ordinance, may create or order the creation of a perpetual care fund and provide for its source and use.

Section 18-1-6 **Rules, Fees and Details of Operation** *Ord. 1140 ** Ord. 1161

A. Fees

1. By resolution, from time to time, the Mayor and Common Council shall establish fee schedules setting for the sales and conveyances of cemetery plots, administrative fees, set-up fees, grave opening and closing fees, grave-site maintenance fees, recording fees, Cremain Niche fees and other miscellaneous fees and charges incidental to the orderly operation and maintenance of the Cemetery.

Ord. 1097/11-11

*1140/6-14
**Ord. 1161/2-16

2. Payments for gravesites shall be made at either the Town of Wickenburg during regular business hours at 155 North Tegner Street, Suite A, or through the local funeral homes.

3. Funeral Homes using the cemetery are responsible for the initial standard landscaping of the gravesites in the cemetery. The initial landscaping fee charged by the Funeral Homes shall not exceed an amount set by council resolution which shall include gravel and proper maintenance for one (1) year after burial.

4. The Town is responsible for care of the gravesites after one (1) year.

5. Any cemetery plots or certificate of right of interment sold or given to another individual, shall provide the Town with a notarized document with both seller and buyer original signatures and date of sale. Under no circumstances shall the Town accept faxed or reproduced/copied signatures. An administrative and recordation fee as established by council resolution shall be charged by the Town.

6. Gravesite locations are awarded on a first-come/first-served basis.

7. The Town will set up a payment plan for partial payments in lieu of a one-time payment in full for any grave site or sites for any plots on the "reserved" list. Payment arrangements shall be made through the Town Finance Department per Section 18-1-5.C. of this Chapter.

B. Rules and Regulations for Operation and Maintenance of Cemetery
Council shall establish written rules and regulations necessary, convenient and proper for implementation of the provisions of this Chapter. Representatives of each funeral home located within the Town, under contract with the Town, shall be specifically invited to review proposed amendments and to provide input and comments.

Section 18-1-7 **General Conditions** **Ord. 1161 *** Ord. 1162

A. Interment will be made only with a written permit (Certificate of Right of Interment) from the Funeral Home Director or Town. The permit shall contain as much of the following data as reasonably obtainable: name, age, date of death, date of burial, date of birth, place of birth of deceased, military service, and whether the decedent was married or unmarried. It shall also include the specific location of burial plot(s) or cremain niche(s).

B. Disinterment may be conducted only with a Final Exhumation Order from the Arizona Superior Court, Maricopa County, Arizona or an Exhumation Permit from the State Of Arizona.

C. The Town may, from time to time, make improvements to the Cemetery up to and including changing the layout of cemetery plots not sold if it's deemed to be in the best interest of all parties.

D. Motor vehicles shall be driven only upon such roads within the Cemetery as the Town may designate. The maximum speed limit will be 10 miles per hour at all times. If a funeral is being conducted the speed limit of 10 miles per hour may need to be reduced for safety purposes.

Ord. 1097/11-11

**Ord. 1161/2-16
***Ord. 1162/4-16

E. A cemetery plot is not to be used for any purpose other than as a place of burial for human remains or as a memorial to deceased persons.

F. Glass containers are not permitted on gravesites.

G. Cemetery hours shall be from sunrise to sunset and shall be closed at all other times.

H. No animals shall be allowed on the cemetery grounds with the exception of dogs certified as seeing eye, companion and/or service dogs.

I. Limited double depth of the burial of a casket/vault is allowed per plot depending on the type of soil where the plot is located on the cemetery grounds. The request must be made prior to any burials occurring at the specific gravesite. If cremains are being buried, up to four (4) urns shall be allowed to be interred in one (1) plot. For certificates of rights of interment issued prior to March 18, 2016, up to six (6) urns shall be allowed in one gravesite.

J. On an annual basis, each funeral home contracted with the Town shall, before undertaking any interments or disinterments, furnish the Town with a current Certificate of Insurance naming the Town of Wickenburg as an additional insured in an amount of not less that two million dollars ($2,000,000.00). Said insurance shall insure the Town against all third party liability claims of any and all kinds related to the funeral home or Funeral Director's operation, or anticipated operation, conducted or to be conducted in the cemetery, save and except the Town shall be liable for its own negligence, gross negligence, or intentional acts and omissions. Additionally, any funeral home or Funeral Director, or their designees or subcontractors, agree to hold the Town of Wickenburg harmless for all third party liability claims of any and all kinds related to the funeral home or Funeral Director's operations, or anticipated operations, conducted or to be conducted in the cemetery.

K. Any funeral home or Funeral Director licensed in the State of Arizona may contract with any other funeral home or Funeral Director for location of available gravesites or other assistance, and any contract fees or charges shall be handled and resolved by and between the contracting funeral homes and Funeral Directors.

L. Removal (disinterment) of interred or inurned remains by heirs, owners or any other person having an interest in any interment rights for the purpose of reselling the interment rights shall be strictly prohibited.

M. Decorations on individual gravesites including boxes, shells, toys, sprinkling cans, receptacles, artificial or natural flowers, or similar items shall be permitted to be placed on any grave space as long as it's kept within the boundaries of the individual gravesite. No curbing or permanent borders are allowed. If a family wishes special gravel and/or other decorations on a specific gravesite they may work with the Funeral Home Director to accomplish this. If, in the opinion of, the Cemetery Director, an item or items are unsafe and/or unstable, said items may be removed by Town Personnel.

N. Neither the Town nor Funeral Director(s) shall be responsible for theft and/or damage to any personal property, including artifacts, headstones, personal effects, etc., placed on or near interment spaces or elsewhere on the cemetery grounds.

O. Any person entering the cemetery grounds other than during posted visiting hours, without prior authorization in writing from the Cemetery Director shall be considered a trespasser.

P. Vehicles driving through the cemetery grounds shall always be driven on the right side of the cemetery roadways. Vehicles are not allowed to turn around on the driveways or roadways and are not allowed to park or come to a full stop in front of an open grave, unless in connection with a graveside service.

Q. No person shall be permitted to hunt any animals within the cemetery grounds.

R. The cemetery grounds are sacred and devoted to the burial of the human dead. The provisions and penalties of the law, as provided by this Article and State Statute, will be strictly enforced in all cases of injury, disturbance and disregard to the Town's rules and regulations set forth within.

S. Children under the age of twelve (12) years old shall not be permitted on the cemetery grounds unless accompanied by an adult.

T. Bicycles, scooters of any type and motorcycles and motor bikes of any type are not permitted on cemetery grounds except when in attendance at a funeral or on cemetery business.

U. Depositing of any type of litter/rubbish on the walkways, roads, grounds, graves, gravesites or anywhere on cemetery grounds is prohibited.

V. No person shall willfully or maliciously deface, break, destroy, disturb, or remove a monument, grave stone, grave marker erected for a deceased person or mark, deface, injure, destroy or disturb any fence post, rail, plant, tree, decoration or wall within the cemetery grounds.

Section 18-1-8 **Plot Markers And Landscaping** **Ord. 1161 ***Ord. 1162

A. The owner of a cemetery plot shall have the right to erect a headstone under the supervision of the Funeral Director(s) or the Cemetery Director. Headstones may be upright, flat, slanted or bevelled. The Cemetery Director may approve alternative headstones if he determines such alternative is generally consistent with the above requirements. In addition, the headstone shall comply with the following standards:

- Does not create a safety hazard
- Contains no moving parts or sharp edges
- Is manufactured of sturdy/long lasting materials; no wood or deteriorating materials are permitted
- Has a professional appearance

B. If a single cemetery plot is used for more than one (1) set of human remains, not more than three (3) markers shall be allowed on the gravesite. The markers shall contain all names, dates, etc. of all the deceased buried therein.

C. The owner of a cemetery plot wishing to install a bench or other type of special ornamental headstone shall first receive written approval from the Cemetery Director. The proposed location, size, and type of ornamental headstone or bench will determine its suitability to the site. The special headstone shall be installed by a professional.

D. New gravesites, during the time without a headstone, will be identified with a temporary legible marker furnished by the funeral home presiding over the burial.

E. No vault shall be built either partly or entirely aboveground with the exception of cremation niches constructed by the Town on the cemetery grounds.

F. Plot owners are prohibited from raising or depressing the surface of a gravesite above or below the surrounding ground.

Ord. 1097/11-11
**Ord. 1161/2-16
***Ord. 1162/4-16

G. No shrubs, trees or plants are permitted to be planted on cemetery grounds without written approval from the Cemetery Director. If a shrub, tree or other type of plant is installed by a gravesite or anywhere else on the cemetery grounds without written permission it will, if deemed necessary, be removed immediately by the Funeral Director and/or Town Personnel.

H. All flat markers are not required to be placed flush with the ground due to the topography of the cemetery. Care shall be given to make sure any protrusion will not be a safety issue.

I. Permanent cemetery plot enclosures, curbing and boundary markers are strictly prohibited.

J. The Town shall not be responsible for any defects in material or workmanship, errors or omissions relating to outer burial containers, memorials or foundations purchased from and/or installed by persons or entities other than the Town.

K. The Town reserves and shall have the right to inspect the completed installation of outer burial containers, memorials, and foundations installed by others at any time. If a problem is found, the Funeral Director shall cause the correction of the problem to be taken care of immediately.

Section 18-1-9 **Transfer of Plots** *Ord. 1140 ** Ord. 1161

A. Owners of a cemetery plot shall not transfer or assign any Certificate of Right of Interment for a plot, without prior consent, in writing, by the Town. Transfers shall require the owner to provide the Town with an original signed and notarized document by both the seller and buyer stating exactly what Certificate of Right of Interments are being transferred to whom and from whom and date of transaction.

B. No conditional or partial transfer of interment rights and no sale or conveyance of an undivided interest therein, except to a person or persons who are already co-owners shall be permitted.

C. Any funeral homes, funeral home directors and their personnel using the cemetery have no authority to give, trade, transfer, disinter or barter with any cemetery plots occupied or unoccupied at any time, for any reason. The Town owns the cemetery property which includes all current and future plots.

Section 18-1-10 **Opening and Closing of Graves**

A. All interments and disinterments in the cemetery shall be performed only by qualified persons, firms, corporations, or under the direct supervision of funeral homes, funeral home directors and their personnel, licensed in the State of Arizona. Any party that inters or disinters or does any type of work in the cemetery shall provide the Town with a Certificate of Insurance outlined in Section 18-1-7.J. Disinterments shall be allowed only with a State Exhumation Permit or Court Order from Maricopa County Superior Court provided to the Town Clerk's office prior to disinterment. The Town reserves the right to do maintenance, make improvements, and do other necessary acts in the best interest of the cemetery.

B. The Town shall be afforded at least forty-eight (48) hours notice before an interment unless a holiday falls during that period. All paperwork must be in the Town Clerk's office prior to burial.

C. A five (5) day notice shall be provided to the Town Clerk's Office prior to an exhumation/disinterment. The exhumation of a body or cremains shall not be made without a Final Exhumation Order from the Arizona Superior Court, Maricopa County, Arizona (court order) or a State of Arizona Exhumation Permit; a copy of which shall be provided to the Town Clerk's office. An administrative fee covering the cost of exhumation

Ord. 1097/11-11
*Ord. 1140/6-14
**Ord. 1161/2/16

shall be paid to the town in an amount established by council resolution for each exhumation/disinterment. The exhumation fee shall be paid to the Town prior to the exhumation. If an exhumation is conducted, the Town shall not be responsible or under any liability for damage to any casket, case, urn or other items to the gravesite or adjacent gravesites. All repairs shall be made immediately by the company or funeral home director conducting the disinterment.

D. State law requires that all out of town or out of state burials have a signed "Burial Permit" which allows for transfer of the body. A copy shall be provided to the Town Clerk's Office at least forty-eight (48) hours prior to said burial or transfer of human remains.

E. All agreements for purchase of cemetery interment rights shall be on approved Town forms, supplied by the Town to all respective funeral homes contracted with the Town to conduct business at the cemetery and signed by an authorized representative of the Town Clerk's office or his/her designee.

F. It shall be the responsibility of the funeral home and funeral director who conducted the interment to fill and repair sunken gravesites for a period of one (1) year from the date of interment. Failure of the funeral home or funeral director to correct the problem within three (3) working days after receipt of notice from the Town of the problem may result in the Town correcting the problem, in which case the Funeral Home or Funeral Director who conducted the interment shall be required to reimburse the Town a costs as established by council resolution. * Ord. 1140

G. Any and all funeral homes, funeral directors, and subcontractors before and after interments or disinterments shall return any areas or items of every kind and nature to a condition equal to or better than the areas or items were prior to activity. The areas and items herein referred to shall include, but are not limited to, headstones and markers (moving and replacement), brick or block walls or other retainers or fences and groundcover landscaping. Brick or cement bordering type landscaping around any gravesites shall not be replaced if removed for any reason; it is prohibited in the cemetery. Any damages or disturbances not repaired or remedied to a condition equal to or better prior to damage or disturbance shall be resolved in one (1) or more of the following manners:

1. The funeral home, funeral director, or their subcontractors shall, within ten (10) days after demand by the Town to repair and/or restore areas or items, remedy the situation to the satisfaction of the Town Cemetery Director. The Town may charge a reasonable administrative/inspection fee for the time and effort expended in issuing the demand and inspecting the results not to exceed an amount per notice and/or inspection of site as established by council resolution. * Ord. 1140

2. The Town, at its option, may make the repairs and/or restoration to the items and/or areas and invoice the responsible party for its actual costs plus twenty-five percent (25%) administrative/inspection surcharge. Persons invoiced shall make full payment to the Town within ten (10) days of receipt of said invoice. If payment is not paid within the ten (10) day time period, the Town shall be entitled, in addition to the invoiced amount, to investigation, collection, and attorney fees from the party or parties in default of invoiced amount(s).

3. In addition to either or both of the above remedies, the Town may, at its option, prohibit the funeral home, funeral director, or subcontractors with a cease and desist order from entering into (for business purposes), or in any way using or conducting any type of operations within the cemetery grounds until the debt is paid in full.

Ord. 1097/11-11

H. The following shall apply to the new Section 10 and any future burials/interments in any Sections within the cemetery whenever possible:

1. There shall be no permanent borders or curbs allowed in the cemetery. Any borders or curbs damaged shall not be replaced but removed entirely from gravesite. Any gravesites that are not yet occupied and have no curb or border installed shall remain without the curb or border being installed once a burial has occurred. Only the gravesites with it currently installed and in good condition shall remain grandfathered.

2. The funeral homes, contracted with the Town will make reasonable efforts to ensure all graves shall be permanently marked within one (1) year of burial. If this deadline can not be met, the funeral home director shall notify the Cemetery Director of the reasons for the delay.

3. The planting of trees adjacent to gravesites is strictly prohibited. Other areas on the cemetery grounds may be available to plant memorial trees only with obtaining written authorization by the Cemetery Director. If an individual wants to plant a tree at on cemetery grounds and receives written approval from the Cemetery Director; only Pines, Palo Verde, and Mesquite Trees may be planted. No irrigation is available for any landscaping along gravesites. The Cemetery Director or his designee shall determine the location of any memorial trees planted on cemetery grounds.

4. No permanent markers shall be placed in the scattering garden.

Section 18-1-11 **Ownership of Cemetery Plot** *1140 **Ord. 1161

A. The ownership interest in a cemetery plot consists of the right of interment in said plot if purchased in full. The plot can be used for no other purpose than interment of human remains. The plot may be privately sold to another person if the plot is unoccupied and the provisions of Section 18-1-9(A) are met.

B. Upon full payment for a Certificate of Right of Interment for a cemetery plot, a receipt will be provided by the Town Clerk's Office to the buyer. Every plot shall be subject to this Article and all State Statutes governing municipal cemeteries. No statement of any agent or employee of the Town, any individuals or funeral home personnel contrary thereto shall be binding to the Town.

C. If ownership transfer is due to the death of one of the plot owners, the remaining plot owner shall be responsible for providing the proper documentation to the Town Clerk's Office reflecting the plot was legally given to same. Transfers or bequeaths are only allowed on plots that are unoccupied and a recordation and administrative fee shall be paid to the Town to complete the transfer in an amount established by council resolution.

D. If the owner of a cemetery plots passes away, the plots become part or his/her estate to be administered by his/her executor. If there is no estate executor, then next of kin, or "majority beneficiary", may authorize the opening and closing of the grave for interment of any additional plots owned by deceased. The Cemetery Director shall be provided proof of executorships or majority beneficiary in the form of a will, statutory declaration or evidence of identity to transfer the ownership of any additional plots.

E. If a person feels a plot(s) is his/her property, he/she must provide the Cemetery Director with a recorded cemetery deed evidencing such ownership prior to March 18, 2016, naming such person as owner. Such evidence may include a Town issued and dated receipt stating same. This must be provided in advance of any burial.

F. Interment rights shall be purchased solely for the purpose of personal or family interment or the interment of the person designated in the purchase of the gravesite paperwork and not for the purpose of speculation.

*Ord. 1140/6-14

Ord. 1097/11-11
**Ord. 1161/2-16

Section 18-1-12 **Additional Regulations** **Ord. 1161 ***Ord. 1162

A. Only the cemetery plot owner or recognized immediate family member can authorize the placement of any monument works at the gravesite. Any monument works must be arranged through an authorized monument dealer adhering to all industry regulations.

B. It is the cemetery plot or plots owner's responsibility to keep current the mailing address on file with the Town Clerk's Office current.

C. Rights of interment in the cemetery shall not be subject to attachments, garnishments, creditor claims, or executions to satisfy debts, obligations or torts of any owner thereof.

D. In every interment an outer container shall be used such as a concrete or fiberglass box or vault, or some type of liner made of stone, brick or concrete. In the case of cremains, a casket shall not be required to bury cremains. An urn to hold the remains is an approved burial method.

E. The Cemetery Director shall not be responsible to provide any equipment for funerals or burials. Funeral homes, funeral directors and/or their subcontractors, shall be responsible for all labor, equipment, and materials necessary for excavation and backfill of gravesites, setting up and removing lowering devices, tents, chairs, and any and all items necessary to properly conduct gravesite activities and interments in the cemetery.

F. The interment of two (2) caskets/vaults in one (1) gravesite double depth; or up to four (4) urns in a single plot is allowed with prior written permission when the plot or plots are purchased. The only exception to this provision is if the Cemetery Director tests the soil and finds it to be too rocky/solid for double depth burials. In all cases of multiple interments, there shall be only one (1) headstone allowed for all those buried in gravesite unless special circumstances are found by the Cemetery Director when advised of the situation in writing. For certificates of rights of interment issued prior to march 18, 2016, up to six (6) urns shall be allowed in one gravesite.

G. Urns with human remain ashes shall be buried, at minimum, three feet (3') deep in the designated gravesite. Up to six (6) urns shall be allowed to be interred in one (1) plot for Certificates of Interment Rights issued prior to March 18, 2016 and, on or after March 18, 2016, up to four (4) urns shall be allowed in one gravesite.

H. When instructions from plot owner regarding the location of an interment space in a plot cannot be obtained, the Cemetery Director or his/her designee may authorize the opening of the plot to see if it is the proper location, so as not to delay the funeral. The Town shall not be liable for any error made in taking this action.

I. The Town shall not be responsible for compliance with any order not in writing or for any mistake made due to the lack of precise and proper instructions.

J. The Town shall not be responsible for obtaining an Interment Permit, a Final Exhumation Order from the Arizona Superior Court or State Exhumation Permit, nor for establishing the identify of the person to be interred.

K. The Cemetery Director shall exercise due care in authorizing a disinterment of human remains, but, in no case, shall assume any liability for damage to any body, casket, or burial case in the disinterment/removal process. The Cemetery Director shall have the right to require an appropriate agreement, signed by all parties, that such person(s) will hold the Town harmless from any liability claim or demand arising therefrom. Disinterments shall only be allowed by the Town if a Court Order or State Permit is provided to the Town Clerk's Office in advance of such action.

Ord. 1097/11-11
**Ord. 1161/2-16 ***Ord. 1162/4-16

L. Drinking intoxicants and the use of loud, obscene or objectionable language are prohibited on cemetery grounds. No picnics shall be allowed on cemetery grounds.

M. Soliciting the sale of flowers, plants, trees, or any commodity is prohibited within the bounds of the cemetery.

N. All questions regarding cemetery plots, services and burials shall be directed to the Cemetery Director or his/her designee. Appropriate arrangements for weekend or holiday needs must be made in advance with the Town.

Section 18-1-13 **Headstone and Bench Placement Rules and Regulations** **Ord. 1161

1. All persons planning to set a headstone will work with the Cemetery Director or Funeral Director for proper placement and alignment. If the headstone is set improperly, as determined by the Cemetery Director or Funeral Director, it will be removed and the individual that set the stone will be required to reset the headstone at no cost to the Town or Funeral Home. Funeral director shall notify the town when scheduling the placing of a headstone.

2. All headstones shall comply with section 18-1-8 Plot Markers and Landscaping.

3. One (1) headstone will be placed at the head of each grave site and centered. Headstones, whenever possible, will be placed in a straight line with the headstones to the left and right of the grave. This shall be up to the discretion of the Funeral Directors and/or Cemetery Director or his/her designee.

4. Placement Of Headstones And Benches/Ornamental Structures:

   A. SINGLE REMAINS GRAVE HEADSTONES: under no condition shall the headstone be larger in width than the actual gravesite.

   B. DOUBLE GRAVE HEADSTONES: under no condition shall the headstone be larger in width than the two (2) actual gravesites.

   C. ONE GRAVESITE/MULTIPLE BURIED REMAINS: when one (1) gravesite is used for up to one (1) casket or four (4) urns or two (2) caskets double depth, not more than three (3) headstones shall be used for all those buried in the single plot. It shall be the responsibility of the Funeral Director to make sure the owner understands this and purchases headstones, bench or ornamental structure that is large enough to list all names, dates and other pertinent information the owner wants on the headstones.

   D. BENCHES/ORNAMENTAL STRUCTURES: all persons wishing to install a memorial bench or some type of ornamental structure must first receive written approval from the presiding Cemetery Director or Funeral Director contracted with the Town. Once approved, the Funeral Director or Cemetery Director shall ensure soil compaction is tested to make sure it can handle the weight properly and that it is of industry standard approved dimensions.

5. Any deviation from the above rules is strictly forbidden except with written consent from the Cemetery Director or his/her designee is received in writing prior to any deviation.

6. The Town reserves the right to make changes to this Article to better serve the needs of the cemetery when appropriate.

**Ord. 1161/2-16

Ord. 1097/11-11

Section 18-1-14 **Lighting**

1. All gravesite lighting shall be solar powered.

2. Any lighting installed shall be approved by the Cemetery Director or his/her designee to make sure it does not project on any adjacent headstone and/or gravesite.

CHAPTER 19 CABLE TELEVISION

ARTICLE 19-1 PURPOSE

The purpose of this Chapter is to regulate the operation of cable television systems operating within the Town to protect the public health, safety, general welfare, and to provide for the payment of fees and other valuable in-kind services to the Town for the privilege of using the public rights-of-way and other public places.

ARTICLE 19-2 DEFINITIONS

In this Chapter, unless the context requires otherwise, terms or words shall have the meaning as defined herein. Words not defined herein or therein are given their meaning in Section 602 of the Cable Act, 47 U.S.C. § 522, and, if none, their common and ordinary meaning.

A. "Access channel" means one or more channels dedicated in whole or in part for local non-commercial programming which is set aside for educational and governmental use, without a charge by the Licensee for channel.

B. "Basic cable service" or "basic service" means any service tier which includes the retransmission of local television broadcast signals.

C. "Cable Act" means the Cable Act of 1934, the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq*., as amended, the 1992 Cable Act, and the Telecommunications Act of 1996 ("1996 Act") as amended.

D. "Cable System" means a facility, consisting of a set of open 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 a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations;
2 A facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;
3. Any facilities of any electric utility used solely for operating its electric utility systems. If any electric utility-based provider operates or maintains connection to this licensed system, that provider is not exempt from the provisions of this Chapter and must either be Licensed or the connection shall cease;
4. A facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, Subsection 201, *et seq*., except that the facility will be considered a Cable System to the extent that it is used in the transmission of video programming directly to subscribers.

E. "Cable Communications Service" means the two-way transmission of video or other programming service to subscribers and any subscriber interaction, if any, required for the selection or use of such video programming or other programming service delivered via the Cable System as defined herein. "Cable Service" shall be synonymous with this definition.

F. "Complaint" means a subscriber or citizen issue presented in formal written form, to the Licensee or to the Town relating to any aspect of the Licensee's performance under this section.

G. "Control of a Licensee or applicant" shall mean majority voting control of the Licensee; provided that, any financing arrangement, including but not limited to the legal ownership, possession or ability to direct the daily affairs of the services provided by Licensee - either directly or indirectly, whether by contractual Agreement, transfer, assignment, sublet or subdivision in any way or through any mechanism including a sale or lease of the Cable System or a sale or change of control.

H. "Density per Cable Plant Mile" means the number of Dwelling or Occupied Units per mile of Licensee's cable system, measured on a linear foot basis (in underground trench or aerial strand) from the nearest technically feasible point of connection to the Licensee's cable system to the structure or structures where cable service has been requested.

I. "Dwelling or Occupied 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 or place of business. Included in this definition, but not limited to this definition are: all single family homes, each apartment or multi-family unit, each condominium unit, patio homes and similar type structures and occupied commercial and industrial businesses.

J. "Educational Institution" includes any public educational institution, which is accredited by a nationally recognized organization, including local primary and secondary schools, colleges and universities.

K. "Fair market value" means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at that time.

L. "FCC" means the Federal Communications Commission.

M. "Government Agency" means any state, local, regional or special government agency with a physical presence within the Town of Wickenburg.

N. "Gross revenues" means all cash, credits, property of any kind or nature, or other consideration, less related bad debt not to exceed one and one-half per cent annually, that is received directly or indirectly by the cable operator, its affiliates, subsidiaries or parent or any person, firm or corporation in which the cable operator has a financial interest or that has a financial interest in the cable operator and that is derived from the cable operator's operation of its cable system to provide cable service in the area of jurisdiction. Gross revenues include all revenue from charges for cable service to subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a subscriber to receive cable service, and any other receipts from subscribers derived from operating the cable system to provide cable service, including receipts from forfeited deposits, sale or rental of equipment to provide cable service, late charges, interest and sale of program guides. Gross revenues also include all income the cable operator receives from the lease of its facilities located in the public streets, roads and alleys, unless services that the lessee provides over the leased facilities are subject to a transaction privilege tax of the licensing authority. Gross revenues do not include revenues from commercial advertising on the cable system, the use or lease of studio facilities of the cable system, the use or lease of leased access channels or bandwidth, the production of video programming by the cable operator, the sale, exchange, use or cablecast of any programming by the cable operator in the area of jurisdiction, sales to the cable operator's subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expense, license fees, taxes or other fees or charges that the cable operator collects and pays to any governmental authority, any increase in the value of any stock, security or asset, or any dividends or other distributions made in respect of any stock or securities.

O. "License" means the right granted by the Town to construct, maintain and operate a Cable System over, on, or under streets, roads and all other public ways, easements, public places and rights-of-way within all or specified areas of the Town and as otherwise described within the License Agreement. The term does not include any License or permit that may be required by this Chapter or other laws, ordinances, or regulations of the Town for the privilege of transacting and carrying on a business within the Town or for disturbing the surface of any street or public thoroughfare.

P. "Licensee" means the person, firm or corporation to whom a License is granted under the terms of this Chapter, and its successors, transferees or assignees subject to the Control, Ownership and Transfer provisions contained in this Chapter.

Q. "License Fee" is the fee based on the Gross Revenue derived from operating and use of public rights-of-way and for operating a Cable System within the limits of the Town.

R. "Normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

S. "Public Right-of-Way" shall mean the surface, air space above the surface, and the area below any public street, road, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive, bridge, tunnel, park, waterway, easement, or right-of-way now or hereafter held by the Town, or dedicated for use by the Town, use by the general public, or use compatible with Cable System operations.

T. "Person" means any individual, corporation, partnership, association, limited liability company, joint venture, or organization of any kind and the lawful trustee, successor, assignee, transferee, or personal representative thereof.

U. "Service call" shall result when service problems occur relating to a loss of or degraded signal or picture on one or more channels or services, or verifiable property damage by Licensee employees or authorized contractors.

V. "Service interruption" means the loss of picture or sound on one or more cable channels.

W. "Signal" means any transmission of radio frequency energy or of optical information including below ground or suspended aerial cables.

X. "Standard drop" means that cable connection which requires no more than a one hundred and twenty-five foot (125') drop measured from the nearest point of subscriber's home or place of business to the nearest active tap on the Cable System, involving only one outlet and standard materials and does not involve a wallfish. In addition, a standard drop shall exclude custom installation work including specific subscriber requested work that requires nonstandard inventory or cable routing that requires construction methods exceeding reasonable underground or aerial work. A standard drop shall include cutting in one or more taps and extending cable as necessary.

Y. "Subscriber" means any person, business or entity who legally receives any Cable Service provided by a Cable System but does not include persons who receive not more than two channels of non-commercial closed circuit video service which is not made available to the general public.

Z. "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.

AA. "User" means a person utilizing a cable system's facilities for purposes of transmission of material or information to subscribers or others.

ARTICLE 19-3 ADMINISTRATION

19-3-1 Town Manager
19-3-2 Actions By The Town Council

Section 19-3-1 Town Manager

The Town Manager (or designee) has responsibility for the administration and enforcement of this Chapter, including:

A. Establishing procedures for the conduct of public hearings and other proceedings required by this Chapter or the License Agreement;
B. Conducting public hearings, including designating hearing officers;
C. Coordinating management and operations of Town government access channels; and
D. Administering corrective remedies as described herein (if necessary) to meet the terms of this Chapter or the License Agreement.

Section 19-3-2 Actions by the Town Council

A. The following actions are subject to approval by the Council:
   1. Granting or renewing a License;
   2. Approving transfer of a License if approval is needed under Article 19-29;
   3. Revoking a License; and
   4. Modifying a License Agreement in a manner that substantially alters material provisions of the License.

B. All other actions are subject to approval by Town Manager, the Public Works Department director or other Town official as designated is this Chapter.

ARTICLE 19-4 AUTHORITY

The Town has authority to grant non-exclusive licenses to construct, operate and maintain cable systems in the public rights-of-way and other public places within the Town of Wickenburg pursuant to A.R.S. § 9-505 and the federal Cable Act.

ARTICLE 19-5 LICENSE REQUIRED

It is unlawful to construct, operate or maintain a cable system in the public rights-of-way and other public places within the Town without a valid license issued under this Chapter.

ARTICLE 19-6 APPLICATION FOR LICENSE

19-6-1 Application For New License
19-6-2 License Fees
19-6-3 Issuance Of License
19-6-4 Conditional Approval

Section 19-6-1 Application for New License

A. Each applicant for a license to construct, operate or maintain a cable system in the Town shall be filed with the Town Clerk and shall include the following:
   1. The corporate name, address and telephone number of the applicant;
   2. The names and addresses of any affiliated, parent or subsidiary companies and their relationship to applicant;
   3. Financial statements, prepared by a certified public accountant, showing applicant's ability to complete construction and installation of the proposed cable system and/or continue operation of an existing system;

4. A description of the cable system proposed to be constructed, installed, maintained or operated by applicant.
5. Any other information required by Town and relevant to issuance of a cable system license.
6. A license fee as provided in section 19-5-4.

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.

Section 19-6-2 <u>License Fees</u>

A. Each application for new license, renewal, transfer or assignment, or modification of License to be granted under the authority of this Chapter shall be accompanied by a fee in an amount established by council resolution. *Ord. 1140

B. If the applicant's application is not approved, such fee is non-refundable. If the application is approved, the application fee will be refunded by offset of license fees to be paid to Town.

C. In consideration of the License granted, Licensee shall pay the Town five percent (5%) of the Licensee's Gross Revenues as defined in this Chapter. Licensee must pay the License fee due to the Town for the preceding quarter within thirty (30) days of the end of that quarter. Monthly payments will be acceptable.

Section 19-6-3 <u>Issuance of License</u>

A. Upon receipt of any application for license, the Town Manager shall prepare a report, including recommendations concerning the application, to be presented to the Town Council at a public hearing. The Town will evaluate all applications submitted within 180 days of receipt of a complete application.

B. Within 180 days after receiving a complete application, a public hearing shall be held to consider the application and receive public comments. Factors to be considered may include, but are not limited to, the quality of cable services proposed, areas to be served, rates, benefit to the Town, experience, background, and financial responsibility of the applicant, its management and owners, technical and performance quality of equipment, willingness to meet construction and physical requirements, to meet all requirements of this Chapter, and to abide by all applicable laws, rules and regulations.

C. Following the first public hearing on an application, the Town Council may direct staff to conduct further negotiations with an applicant, or set further public hearings. Within 180 days after the first public hearing, the Town Council shall make a final decision that such application be denied, or that such license be granted with the terms and conditions approved by Council. The decision shall be based on the public record, issued in writing and shall be final.

Section 19-6-4 <u>Conditional Approval</u>

No license granted shall become effective unless and until the license is officially accepted by licensee, and all insurance, letter of credit and bond requirements are submitted within twenty (20) days from Town Council approval of a license or such longer period of time approved by Council.

ARTICLE 19-7 <u>LICENSE SCOPE</u>

A. A license issued under this Chapter authorizes licensee to construct, operate and maintain a cable system in the public rights-of-way for installing cables, fiber, wires, lines, and other facilities in order to provide cable services. A licensee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the public rights-of-way in the Town such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appropriate to the operation of the system.

B. A license does not authorize licensee to install cables, wires, lines, or any other equipment or facilities on private property without the owner's consent.

*Ord. 1140/6-14

C. Licensee is authorized to use, operate and provide similar facilities on or to properties rented, licensed or leased from other persons, firms or corporations, including but not limited to any public utility or other licensee licensed or permitted to do business in the Town; provided, however, that neither the licensee nor the third party shall be relieved of any regulation or obligations as to its use of such facilities in the streets, as required by local building or other Code or Ordinance.

D. A license is subject to the paramount right of use by the Town and the public for public purposes consistent with applicable law.

ARTICLE 19-8 LICENSE TERM

The term of any license shall not exceed fifteen (15) years. A license may be renewed by the Town pursuant this Chapter and then applicable law.

ARTICLE 19-9 TECHNICAL STANDARDS

19-9-1 FCC Standards
19-9-2 Continuous 24-Hour Operation
19-9-3 Scheduled Testing
19-9-4 Testing For Compliance With FCC Standards
19-9-5 Maintenance Of The System In Good Working Order
19-9-6 Technical Specification Of Cable System

Section 19-9-1 FCC Standards

Licensee shall operate and maintain its Cable System in compliance with all Federal Communications Commission ("FCC") requirements, including but not limited to those set forth in 47 C.F.R. Part 76 or as amended. If federal law is subsequently amended or minimum technical specifications are no longer mandated by the FCC, the technical specifications in effect at the time of adoption of the License Agreement shall govern. Should the FCC promulgate amended technical requirements which exceed the performance guidelines in effect at time of the adoption the License Agreement, Licensee shall operate its System in compliance with such applicable FCC requirements. All maintenance performed on the Cable System by the Licensee shall be in accordance with FCC regulations governing technical performance and operating standards, currently in effect or hereinafter amended.

Section 19-9-2 Continuous 24-Hour Operation

The Cable System shall operate continuously for 24 hours daily without severe material degradation or malfunction of signal under normal operating conditions. The term "normal operating conditions" as used herein means those service conditions which are within the control of the Licensee. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

Section 19-9-3 Scheduled Testing

For any scheduled testing of the System which causes any substantial interruption to Cable Service, the Licensee must make reasonable efforts to notify Subscribers within ten (10) days prior to such testing and possible interruption. This notification includes but is not limited to notification by character generator on the Cable System or neighborhood flyers in the areas to be tested. Insofar as feasible, Licensee shall voluntarily interrupt the provision of Cable Service only with good cause and for the shortest time possible during periods of minimum Cable System use.

Section 19-9-4 Testing for Compliance with FCC Standards

Following construction of the Cable System, tests shall be conducted on this System which shall meet FCC Cable Television System Technical Performance Standards of 47 C.F.R. §76.601 through and including §76.630. On request of the Town, the Licensee shall provide copies of test results and documentation of any required repairs determined to be needed by the required tests.

Section 19-9-5 Maintenance of the System in Good Working Order

Licensee shall maintain all of the material properties, assets and equipment of the Cable System, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of its License.

Section 19-9-6 Technical Specifications of Cable System

Licensee shall construct, install, operate and maintain its Cable System at all times in compliance with the specifications and standards set forth in the License.

ARTICLE 19-10 CONSTRUCTION OF CABLE SYSTEM; USE OF PUBLIC RIGHTS-OF-WAY

19-10-1 In General
19-10-2 Construction Performance Bond
19-10-3 Construction Plans
19-10-4 Construction Schedule
19-10-5 Relocation
19-10-6 Interference
19-10-7 Safety
19-10-8 Undergrounding
19-10-9 Permits; Damage
19-10-10 Blue Stake
19-10-11 Tree Trimming
19-10-12 Temporary Changes
19-10-13 Co-Location & Joint Trenching
19-10-14 Pole Attachments

Section 19-10-1 In General

Licensee shall comply with the terms of all current and applicable and lawful zoning, building and other ordinances, regulations, codes, guidelines and laws controlling the location, construction of, or attachment to towers, poles, cables, amplifiers, conduits and other facilities owned, leased and otherwise used by Licensee for the Cable System. This includes requirements to obtain applicable permits. No construction will take place in public easements or public rights-of-way prior to any required permitting by and approval of Town of Wickenburg Public Works Department, which shall not be unreasonably withheld or delayed. Licensee shall construct its Cable System in compliance with the Town Code, Article 8-3 Street Improvements, as may be amended. In case of any conflict between Article 8-3 and this License, the more stringent terms shall apply.

Section 19-10-2 Construction Performance Bond

A. Ongoing Construction. To ensure the Licensee's performance of License obligations, Licensee shall have in force at all times a performance and payment bond in favor of the Town in an amount equal to the reasonable estimated cost of the project at least ten (10) days prior to the start of any construction. This bond shall be approved by the Town Attorney and Town Manager, and shall be maintained throughout the

period of construction only, unless construction of the cable system is ongoing. If construction is ongoing throughout the term of this license, the Performance Bond shall be effective throughout the term of this License. The Town reserves the right to approve the form of the Performance Bond.

B. Interest. When the Licensee furnishes a deposit or deposits money pursuant to this section, interest at the rate of 5% (five percent) per annum shall be credited or paid to the Licensee annually during the continuance of the deposit.

C. Withdrawal. In the event the Licensee fails to comply with any law, ordinance, or regulation governing the Licensee, or fails to well and truly observe, fulfill and perform each term and condition of the License, there shall be recoverable, jointly and severally from the principal of the bond, any damages or loss suffered by the Town as a result, plus a reasonable allowance for consultant and attorney's fees, including and up to the full amount of the bond. Town shall have the right to make a withdrawal without further notice to Licensee, if Licensee, after reasonable notice and opportunity to cure any default under this License, has failed to effect such cure.

D. Release. Upon completion of construction and payment of all construction obligations of the full cable system satisfactory to the Town, the Town Attorney may, with the approval of the Town Manager, eliminate or reduce the requirement of the Licensee to maintain the said bond, considering performance history of the Licensee and other factors.

E. Waiver. The Performance Bond provisions may be conditionally waived by the Town in good faith of high standards of past performance in working within the pubic rights-of-way. Licensee is under obligation to maintain the highest standards of performance while working within the public right-of-way within the Town, and if, at any time, the Town Manager or Town Council find that the Licensee has failed to maintain standards set forth in Article 8-3 Street Improvements and/or this License, the Town Manager may revoke such amnesty, upon written notice of non-compliance, with opportunity for Licensee to remedy the non-compliance as defined in this Chapter.

Section 19-10-3 Construction Plans

Prior to commencement of new construction or expansion of the System, the Licensee shall provide the technical specifications, in adequate detail, to be utilized in the construction of the Cable System. At such time that the Licensee applies for a permit to construct a new portion of the System, the Licensee shall submit to the Town Public Works Department a detailed site plan or map showing the proposed location of that portion of the System and the relationship of that portion of the System to all existing roadway systems, with sufficient information for Wickenburg Public Works Department to issue the right-of-way permit, and to inspect the work being performed in the public easements and public rights-of-way. Upon completion, and at the Town's request, the Licensee shall file construction plans with the Town in hard copy. If requested by the Town, the Licensee shall also file construction plans in electronic mapping format compatible with the Town's current electronic mapping format, , showing the location of all underground cable; provided, however Licensee may request Town to pay the actual reasonable costs of supplying the mapping in the Town's current electronic mapping format.

19-10-4 Construction Schedule

The Town may require Licensee to report on construction progress and provide information showing how the construction schedule established in the License or construction permits is being met.

19-10-5 Relocation

Licensee must remove, replace, or modify at its own expense any of its facilities in a public right-of-way when the Town requires it to do so, to allow the Town to change, maintain, repair or improve a public thoroughfare or perform other public improvements. Any privilege claimed under this License by the Licensee in any street, alley, or public rights-of-way, shall be subordinate to any lawful occupancy of the streets, or other public property, or which in the future may interfere with the public safety or necessary public improvements as determined necessary by the Town. The Town reserves every right and power to require the Licensee to protect, support, temporarily disconnect or relocate in the same street, alley or public space, at the Licensee's expense and after ninety (90) days advanced notice, by reason of traffic conditions, public safety, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water or sewer pipes, signal lines and any other type of structures or improvements by the Town or other public agencies when acting in an official capacity. The Licensee shall have the choice to either relocate or abandon the infrastructure in place.

Section 19-10-6 Interference

All transmission lines, equipment and structures, including poles, shall be installed and located to cause minimum interference with the rights and reasonable convenience of property owners.

Section 19-10-7 Safety

Suitable safety devices and practices as required by local, Town, state and federal laws, regulations, and permits must be used during construction, maintenance, and repair of a cable system.

Section 19-10-8 Undergrounding

Licensee must put the cable underground at its expense on streets and roads where both electrical and telephone utility wiring are underground, and must move the cable underground after initial installation when electrical and telephone utility wiring are moved underground. The Licensee must put the cable underground between a street or road and a subscriber's residence if both electrical and telephone utility wiring are underground. A Licensee may install aerial cable on electric or telephone utility poles if Licensee agrees to pay any reasonable additional costs for Licensee permits for such aerial installation; provided, however the Town reserves the right to require License to underground facilities at Licensee's own expense when the pole is taken down.

Section 19-10-9 Permits; Damage

Licensee must obtain any required permits before starting construction work on public rights-of-way. Licensee shall not be required to pay any Town permit fee or inspection fee for work in the public rights-of-way, unless state law is amended to allow the Town to charge such fees in addition to the License Fee. Licensee, at its own expense, shall promptly restore all public rights-of-way to their former or better condition after construction is completed within the area permitted. The Town, may, after prior written notice to the Licensee, repair any damage done by the Licensee at the Licensee's expense if restoration is not satisfactorily performed within a reasonable time, any amnesty from providing Performance or Surety Bond contained in this Article may be rescinded. Licensee shall bear all reasonable costs that are associated with damage caused to public streets, road and alleys by construction, maintenance and operation of its facilities in the public streets, roads that are imposed on a competitively neutral and nondiscriminatory basis in relation to costs borne by telecommunications corporations under A.R.S. § 9-582, subsection C.

Section 19-10-10 Blue Stake

Licensee shall participate in the regional one call utility locating system (Blue Stake).

Section 19-10-11 **Tree Trimming**

Subject to the supervision and direction of the Town, Licensee may trim trees within public rights-of-way at its own expense as necessary to protect its wires and facilities, and with National Electrical Safety Code and other clearance requirements. A Licensee may trim trees on private property with the consent of the property owner.

Section 19-10-12 **Temporary Changes**

At the request of any person holding a valid building moving permit and upon sufficient notice, the Licensee must temporarily raise, lower or cut its wires as necessary to facilitate a move. The direct expense of these temporary changes, including standby time, must be paid by the permit holder. The Licensee may require payment in advance.

Section 19-10-13 **Co-location and Joint Trenching**

Licensee shall cooperate with the Town and all other persons with authority from the Town to occupy and use the public rights-of-way in the coordination and construction activities and joint-trenching projects, and shall provide the Town with a proposed construction schedule in, around or that may affect the public rights-of-way. The Town Engineer shall coordinate all construction locations, activities, and schedules to minimize public inconvenience, disruption, or damage to the public rights-of-way of the Town.

Section 19-10-14 **Pole Attachments**

Licensee may utilize, after obtaining the owner's permission and in accordance with a separate executed Pole Attachment Agreement, existing poles, conduits or such other facilities whenever feasible, and may make its own facilities available for other Licensees or other users of the streets on reasonable terms when feasible. Nothing in this section, however, shall be interpreted as to grant the right to use any existing easement or to utilize any poles, conduits, easements, or other facilities without the owner's permission. Underground streets, sidewalk and driveway crossings not using existing conduits shall be bored unless specific Town approval is received. The Licensee may install its own poles only when approved by the Town and then subject to whatever reasonable terms and conditions the Town requires.

ARTICLE 19-11 LINE EXTENSIONS

A. After completion of construction or any upgrade of the Cable System required by a License, or at any time after issuance of a License if no construction or upgrade is required by the License, Licensee shall extend its Cable System in accordance with the provisions of this Article.

B. Upon request of an unserved Dwelling Unit or Occupied Unit, subject to the exceptions set forth in subsection (C), Licensee shall extend its cable system and provide cable service as follows:

   1. Standard Drops. If the Unit is located within one-hundred twenty -five feet (125') of the nearest feasible point of connection to any Licensee's cable distribution system, including but not limited to trunk and feeder lines, and aerial lines, then, within ten (10) calendar days from the request, Licensee shall complete a Standard Drop connection at the standard connection charge.
   2. Location beyond Standard Drop. If the Unit is located beyond a distance of one-hundred twenty-five feet (125') of the nearest feasible point of connection to any of the Licensee's cable distribution system, including but not limited to trunk and feeder lines, and aerial lines, then, within one hundred twenty (120) days from request, Licensee shall complete a connection at the standard connection charge plus an amount equal to the reasonable actual labor and material costs incurred by Licensee for the additional facilities and work required to extend the line beyond the Standard Drop.

C. Exceptions: Licensee shall not be required to comply with the line extension requirements set forth in subsections (A and B) where:

   1. Licensee is unable to obtain access to easements and rights-of-way which are reasonable under prevailing market conditions.
   2. Another cable system operator licensed under this Chapter has already installed and is operating a cable system.

3. The line extension is not commercially impracticable, as reasonably determined by the Town Council.
4. Additional time for the line extension is required due to unusual circumstances, including without limitation, street crossings, in which case the time requirements are extended for such reasonable time as required under the circumstances. The City Manager may require Licensee to demonstrate an extension of time is required.
5. The Density per Cable Plant Mile is less than forty (40) Dwelling or Occupied Units per Cable Plant Mile. For illustrative purposes, if one mile of cable plant is extended to pass by 40 Dwelling or Occupied Units, density per cable plant mile is 40. If one-half mile of cable plant is extended to pass by 20 Dwelling or Occupied Units, the density is 40. If one-fourth mile of cable plant is extended to pass by 10 Dwelling Units or Occupied Units, the density is 40. If one-eighth mile of cable plant is extended to pass by 5 Dwelling Units or Occupied Units, the density is 40.

ARTICLE 19-12 SECURITY DEPOSIT OR LETTER OF CREDIT

19-12-1 Amount
19-12-2 Interest
19-12-3 Withdrawal
19-12-4 Automatic Replenishment
19-12-5 Return Of Deposit
19-12-6 Rights

Section 19-12-1 Amount

Licensee must post with the Town a Security Deposit, Irrevocable Letter of Credit or Bond in an amount set forth in the license before the license is effective. The Town must hold the security deposit as security for:

A. Faithful performance of all applicable compensation provisions of law, this Chapter and the License Agreement;
B. Collection from the Licensee for any claims, liens, taxes or compensation due to the Town because of the operation or maintenance of the Cable System, or costs or expenses that the Town is compelled to pay by reason of any act or default of the Licensee in connection with this Chapter or its License.

Section 19-12-2 Interest

The Town shall place any such security deposit in an interest bearing account such as those in which the Town general funds are located. The interest will accrue to the benefit of the Licensee but may not be withdrawn. All interest is added to and becomes part of the original security deposit during the term of the License.

Section 19-12-3 Withdrawal

The Town may immediately withdraw an appropriate amount, including interest and penalties, from the security deposit if:

A. After ten (10) days notice the Licensee fails to pay to the Town any fees or taxes due and unpaid, damages, or costs or expenses that the Town is compelled to pay by reason of any act or default of the Licensee in connection with this License, unless Licensee contests the matter within the ten (10) day notice period; or
B. After thirty (30) days notice to the Licensee, the Licensee fails to comply with any provision of the License that the Town reasonably determines can be remedied by an expenditure of the security deposit.

The Town must promptly notify the Licensee of the amount and date of any withdrawal.

Section 19-12-4 Automatic Replenishment

The Licensee shall replenish the Security Deposit unless Licensee appropriately remedies the issue. If any amount is contested by the Licensee, then there needs to be a resolution of that issue prior to replenishment. The parties

shall agree to negotiate in good faith about any replenishment should the initial security fund be depleted by any amount.

Section 19-12-5 Return of Deposit

The Town must return the security deposit to the Licensee after termination or expiration of the License if there is no outstanding default or unpaid amounts owed to the Town by the Licensee.

Section 19-12-6 Rights

The rights reserved to the Town with respect to the security deposit are in addition to all other rights of the Town under this Chapter and the License Agreement or other law. An action, proceeding, or exercise of a right with respect to the security deposit does not affect any other right the Town may have.

ARTICLE 19-13 INSURANCE

19-13-1 Insurance Amounts
19-13-2 Increases
19-13-3 Self Insurance

Section 19-13-1 Insurance Amounts

Upon acceptance of a license, the Licensee shall file with the Town Clerk and shall thereafter during the entire term of such license maintain in full force and effect, at its own expense, a general comprehensive liability insurance policy or policies which shall insure licensee and provide primary coverage for the Town, its officers, boards, commissions, agents and employees, against liability for loss or liability for personal injury, death, property damage (both automobile and non-automobile caused), or other damages in such amounts as set forth in the License. Such policy or policies shall be issued by a company approved by the manager and shall be in a form approved by the Town attorney, with minimum combined single limits of liability coverage in the amount of $2,000,000.00. The policy or policies shall name the Town, its officers, boards, commissions, agents and employees as additional insured and contain a provision that a written notice of any cancellation, modification or reduction in coverage of said policy shall be delivered to the clerk 30 days in advance of the effective date thereof. No license granted under this Chapter shall be effective unless and until certificates of insurance evidencing coverage required above are delivered to the clerk. Any substitute policy or policies shall be subject to the same approvals and shall comply with all of the provisions of this subsection.

Section 19-13-2 Increases

The Council may require increases in the amount of types of coverage no more frequently than every five years, based on increases in the CPI, so as to ensure full protection of the Town and the public. The licensee shall have six months from the date of notification from the manager to comply with any increase.

Section 19-13-3 Self Insurance

A licensee may self-insure the above-described policy coverages if such licensee or its parent is of sufficient financial standing to reasonably provide such insurance. A licensee that elects to self-insure shall file with the Town a certificate of insurance as specified by the Town.

ARTICLE 19-14 INDEMNIFICATION

19-14-1 In General
19-14-2 Indemnification
19-14-3 Overbuild

Section 19-14-1 **In General**

Any Licensee issued a License under this Chapter shall indemnify the Town as set forth in this Article, and the indemnification provisions of this Article survive any expiration or termination of a License.

Section 19-14-2 **Indemnification**

A. Licensee shall indemnify, hold harmless, and defend the Town, its officials, boards, commissions, agents, and employees, against any claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its cable system regardless of whether the act or omission complained of is authorized, allowed or prohibited by the License. This requirement includes claims arising out of copyright infringement or a failure by the Licensee to secure consent from the owner, authorized distributor, or Licensee of a program to be delivered by the Cable System.

B. To the fullest extent permitted by law, Licensee shall defend, indemnify and hold harmless the Town of Wickenburg, its agents, officers, officials and employees for and against all tort claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted either wholly or in part from the acts, errors, mistakes, omissions, work or services of the Licensee, its agents, employees, contractors or subcontractors in the performance of its activities, and regardless of whether or not such claim, damages, loss or expenses are caused in part by the non- negligent actions of the Town of Wickenburg. By law, the Town and its employees may not be indemnified and held harmless in cases where the Town or its employees cause willful damage or loss to a system, and may also be responsible for such claims, damages and losses, should they occur.

C. Licensee has a contractual duty to defend, hold harmless and indemnify the Town of Wickenburg, its agents, officers, officials and employees shall arise in connection with any tort claims, damages, losses or expenses that are attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused either wholly or in part by Licensee's acts, errors, mistakes, omissions, work or services in the performance of its activities including any employee of the Licensee or any other person for whose acts, errors, mistakes, omissions, work or services the Licensee may be legally liable, and regardless of whether or not such claim, damages, losses or expenses are caused in part by the non-negligent or non-willful actions of the Town of Wickenburg.

Section 19-14-3 **Overbuild**

In the event of an overbuild situation by a new provider of multiple channels of video programming, the Town may require written agreements from the new provider to require the new provider to indemnify each Licensee for any damage to facilities and services caused by construction or maintenance of the cable systems of the new providers.

ARTICLE 19-15 ACCESS CHANNELS

19-15-1 Access Channels
19-15-2 Town Responsibilities
19-15-3 Capital Grant

Section 19-15-1 **Access Channels**

A. Town may require Licensee at Licensee's own expense to provide access channel capacity to transmit programming over which the Licensee exercise no editorial control except as authorized by 47 United States Code § 531(e). The educational or governmental access programming shall be limited to not more than two (2) channels of public, educational or governmental access programming in the basic service tier of the cable television system and not more than two channels of noncommercial governmental programming, at least one of which may be programmed by the federal government, in the digital programming tier of the cable television system. If channel capacity is required, the programming shall be specified in the License and

the cable operator may require that the channels regularly display an unobtrusive logo or other suitable identifier of the cable operator as set forth in the License.

B. Licensee at its own expense shall provide, maintain, and operate facilities and equipment of the cable television system, including facilities and equipment for signal carriage, processing, reformatting and interconnection:
   1. To connect the cable television system, as it may be relocated from time to time, to transmit programming to and from existing locations of public, educational or governmental access facilities and to allow monitoring of access programming at the facilities. The term "existing" shall mean those locations designated in the License.
   2. To transmit public, educational and governmental access channels to subscribers with the same prevailing quality, functionality and identification as other channels.

C. The value of any channel capacity provided pursuant to this section, and the costs and expenses incurred pursuant to this section may not be offset against the Licensee Fee levied or assessed under the License.

Section 19-15-2 Town Responsibilities

Town and/or the Educational Institution using an Access Channel shall be responsible for day-to-day operation of the Access Channels, and adopting reasonable rules governing use of the Access Channels.

Section 19-15-3 Capital Grant

If provided for in the License, Licensee shall provide a capital grant for purchase of equipment and facilities for the Access Channel(s).

ARTICLE 19-16 CONNECTION AND BASIC SERVICE TO PUBLIC BUILDINGS

19-16-1 Standard Drop To Public Buildings
19-16-2 Basic Service

Section 19-16-1 Standard Drop to Public Buildings

Upon request of the Town, Licensee shall provide, without charge, a minimum of one activated standard drop to all present and future public buildings as designated by the Town from time to time, including but not limited to: public schools, colleges and universities; Town fire stations and police stations; public libraries; Town community center; and Town recreational facilities.

Section 19-16-2 Basic Service

If requested by Town at any time, Licensee shall provide basic service free of charge to offices and facilities of the Town. The value of any basic service provided by Licensee shall not be offset against the License Fee levied or assessed under the License.

ARTICLE 19-17 DISCRIMINATION PROHIBITED

A. Licensee must have a uniform rate structure for its Cable Services throughout the License area to the extent required by the Cable Act and the FCC rules.

B. Licensee must not deny, delay, or otherwise burden service or discriminate against subscribers or users on the basis of age, race, religion, color, sex, sexual orientation, handicap, national origin, martial status, or geographic location, except for discounts for the elderly and handicapped.

C. Licensee shall not deny cable service to any potential subscriber because of the income of the residents of the area in which the subscriber resides.

D. Licensee shall provide all residential areas (and commercial and industrial areas where economically feasible) within the Town with access to Cable Services, provided that all such permission as may be required from the owner of the property is reasonably available, subject to the requirements set forth in this License.

E. For purposes of determining compliance with this Article, Licensee shall maintain and allow the Town to inspect on request, a basic service area map to current customers illustrating current service areas within the Town limits.

ARTICLE 19-18 CUSTOMER SERVICE REQUIREMENTS

19-18-1 Telephone Availability
19-18-2 Customer Service Center
19-18-3 Installations, Outages, & Service Calls
19-18-4 Communication Between Cable Operators And Cable Subscribers
19-18-5 Information To Be Provided To Cable Subscribers
19-18-6 Notice To Subscribers Concerning Rate And Service Changes
19-18-7 Subscriber Bill Information And Bill Disputes
19-18-8 Change In Federal Regulations
19-18-9 Continuity Of Service Mandatory
19-18-10 Subscriber Privacy

Section 19-18-1 Telephone Availability

A. Licensee shall maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

B. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply. Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

Section 19-18-2 Customer Service Center

Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

Section 19-18-3 Installations, Outages, and Service Calls

Under normal operating conditions, each of the following four standards will be met no less than nine-five (95) percent of the time, measured on a quarterly basis:

A. Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

B. Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

C. The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled,

the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

Section 19-18-4 Communication Between Cable Operators And Cable Subscribers

A. Refund checks will be issued promptly, but no later than either: 1) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or 2) The return of the equipment supplied by the cable operator if service is terminated.
B. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

Section 19-18-5 Information to be Provided To Cable Subscribers

Licensee shall comply with all requirements set forth in 47 C.F.R. § 76.1602 as may be amended.

Section 19-18-6 Notice to Subscribers Concerning Rate and Service Changes

License shall comply with all requirements set forth in 47 C.F.R. § 76.1603 as may be amended.

Section 19-18-7 Subscriber Bill Information and Bill Disputes

Bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity curing the billing period, including optional charges, rebates and credits. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

Section 19-18-8 Change in Federal Regulations

In the event the FCC amends regulations related to customer service found in 47 C.F.R. Part 76 the Town may require Licensee to confirm its customer service standards to amended FCC regulations.

Section 19-18-9 Continuity of Service Mandatory

A. It is the right of all subscribers to receive all available services from the Licensee if their financial and other obligations to the Licensee are satisfied.
B. If this License is terminated, the Licensee shall make good faith efforts to ensure that all subscribers receive continuous, uninterrupted service until the termination is final, and then refund the remaining portion of the monthly service charge to the subscriber.
C. If Licensee discontinues service to its subscribers without Town approval, the License may be terminated immediately.

Section 19-18-10 Subscriber Privacy

Licensee shall protect the privacy of all subscribers as provided for in the federal Cable Act. Licensee shall not condition subscriber service on the subscriber's grant of permission to disclose information, which, cannot be disclosed without the subscriber's explicit consent under federal law.

ARTICLE 19-19 REPORTS AND RECORD KEEPING

19-19-1 Records Of Written Complaints
19-19-2 Inspection
19-19-3 Subscriber Information
19-19-4 Annual Reports

Section 19-19-1 Records of Written Complaints

Licensee must maintain a complete record of formal written complaints received and action taken. These records must be open to the Town for inspection during normal business hours, subject to applicable law, including privacy laws. Licensee must maintain complaint records for three (3) years. In lieu of retaining all complaint records for the entire term of the License, Licensee shall provide the Town with a monthly or quarterly report summarizing the total number and nature of formal written complaints, including e-mail complaints, that describes the nature of the complaint, action taken, and final resolution.

Section 19-19-2 Inspection

Licensee must maintain a complete set of books and records, relevant to its obligations under the License, available for inspection upon fourteen (14) calendar days' notice by the Town during normal business hours.

Section 19-19-3 Subscriber Information

The Town Manager, as the authorized signatory, or designee, may request subscriber information from the Licensee to the extent permitted under the Cable Act (47 U.S.C. § 551) and such information must be made available at Licensee's office in the Phoenix metropolitan area for inspection and copying in any format as requested by the Town under this Chapter. Public access to such information or inspection or the Town's ability to withhold such information is subject to Arizona Revised Statutes and other applicable law.

Section 19-19-4 Annual Reports

Unless this requirement is waived, in writing, in whole or in part by the Town Manager or Town Council, the Licensee shall submit a written annual report to the Town, or prepare a report available for viewing by the Town Manager or designee. Information in this section may be subject to open records laws, unless otherwise designated as confidential and not to be disclosed. Non-disclosure shall be based on the statutory threshold for public information and proprietary information, and shall be marked as such by the Licensee. Licensee must file with the Town a report which includes:

- A current revenue statement showing the Gross Revenues by the Licensee during the preceding calendar year,
- The total number of current and new homes passed,
- The total number of current and new subscribers,
- Proposed growth areas,
- Service offerings by type and price, including all bundled and premium services,
- Responses to formal written complaints, malfunctions and service failures (the last three responses to formal complaints, malfunctions and service failures, are only required if more than ten (10) formal written complaints are received or if a response to a specific complaint is requested by the Town),
- A current list of officers and members of the Board of Directors or similar controlling body of the Licensee and any affiliates, reflecting any changes in ownership during the previous calendar quarter,
- A disclosure statement of all corporations, partnerships and/or other persons with more than a 5% (five percent) ownership interest in the Licensee, stating the nature of the ownership interests, reflecting any changes during the previous calendar year,
- Copy of current map showing areas of Town serviced by Licensee, clearly delineating streets and other boundaries of service;
- A current emergency contact and notification list including after-hour numbers for key staff,
- A summary update concerning emerging issues (such as Legislative issues) affecting or involving Services and Service delivery as identified by the Town, and

- Other information that the Town may reasonably request.

ARTICLE 19-20 PERFORMANCE EVALUATIONS

The Town may hold a minimum of three (3) formal performance evaluations in public hearing settings during the term of each License. The Town Manager may determine the times for the hearings and the issues that the Licensee must address in the hearings. Nothing in this section shall prohibit the Town Manager from conducting other performance evaluations and audits in non-public hearing settings as deemed necessary.

ARTICLE 19-21 ENFORCEMENT OF CERTAIN CUSTOMER SERVICE STANDARDS

Town shall give Licensee at least 90 days written notice of its intention to enforce customer service standards found in Sections 19-19-5, 19-18-6, and 19-18-7.

ARTICLE 19-22 LIQUIDATED DAMAGES

19-22-1 Amount
19-22-2 Notice & Opportunity To Cure

Section 19-22-1 Amount

Any license issued by the Town shall provide for liquidated damages for a failure by Licensee to comply with the license. The amount(s) of liquidated damages shall be set forth in the license. Liquidated damages are in addition to any other remedy the Town may pursue at law.

Section 19-22-2 Notice and Opportunity to Cure

Prior to imposition of liquidated damages, the Town Manager shall give written notice to licensee of licensee's alleged failure to comply with the license, and may provide a reasonable opportunity to cure said violations if a cure has not already been affected. Within fifteen (15) days from receipt of said notice, Licensee may request a hearing with the Town Manager. Within thirty (30) days of receipt of such request, the Town Manager or his designee shall conduct a hearing and render a written decision as to whether the violations were satisfactorily cured, if no cure can be affected, whether a reasonable alternative remedy was effected, and/or whether liquidated damages are appropriate. Within fifteen (15) days of receipt of such decision, Licensee may appeal this decision to the Town Council which will conduct a hearing de novo. The decision may be appealed within thirty (30) days by any aggrieved party to superior court. The record on appeal shall include written and oral presentations made by each party at the hearing and any other information considered at the hearing. The court in its judgment may award the prevailing party reasonable attorneys fees, not to exceed $20,000.

ARTICLE 19-23 ENFORCEMENT OF LICENSE

19-23-1 Notice Of Violation
19-23-2 Default
19-23-3 Hearing Available To Licensee
19-23-4 Appeal To Default
19-23-5 Revocation
19-23-6 Jurisdiction & Venue

Section 19-23-1 Notice of Violation

The Town shall provide Licensee with a detailed written notice of any License violation upon which it proposes to take action. The notice shall state that Licensee has ten (10) business days following the date of the Notice to: (1) demonstrate a violation does not exist or cure the alleged violation, or, (2) if the violation can not reasonably be cured within 10 business days, to initiate a reasonable plan of action to correct such violation (including a projected date by which it will be completed) and notify the Town of such plan of action.

Section 19-23-2 Default

If Licensee fails to disprove or correct the violation within ten (10) business days following the date of Notice of Violation or, in the case of a violation which cannot be corrected in 10 business days and Licensee has failed to notify the Town of the Licensee's reasonable plan of corrective action and to correct the violation within the specified time frame, then the Town may declare the Licensee in default, which declaration must be in writing. In the event that the Town declares Licensee in default, the Town shall have the right to institute legal proceedings to collect damages from the date of declaration of default, or to exercise any other rights and remedies afforded to the Town in law or equity, provided, however, that the Town may institute revocation proceedings against Licensee only after declaration of default, pursuant to Section 19-23-5 Revocation and only on the grounds set forth therein.

Section 19-23-3 Hearing Available to Licensee

Within fifteen (15) days after receipt of a written declaration of default from the Town, Licensee may request, in writing, a hearing before the Town Council. Such hearing shall be held within thirty (30) days of the receipt of the request therefore and a decision rendered within ten (10) days after the conclusion of the hearing. Any decision shall be in writing and shall be based upon written findings of fact. The decision may be appealed within thirty (30) days by any aggrieved party to superior court. Subject to the Town police powers that may require immediate cessation of Licensee operations to protect the public health, safety, welfare and property, Licensee may continue to operate until there is a final, non-appealable decision to revoke.

Section 19-23-4 Appeal of Default

Licensee may appeal a declaration of default to a court of competent jurisdiction.

Section 19-23-5 Revocation

Subject to federal, state and local law, the Town may revoke the License for any material breach or repetitive breaches of the License. Prior to revocation, the Town Council will hold a public hearing on the issue of revocation, and then determine, by written resolution, whether or not to revoke the License based on the recommendations of the Town Manager, information presented at the public hearing, and other evidence in the record. Licensee shall be given notice and opportunity to appear at the hearing and present evidence. The decision may be appealed within thirty (30) days by any aggrieved party to superior court. Subject to the Town police powers that may require immediate cessation of Licensee operations to protect the public health, safety, welfare and property, Licensee may continue to operate until there is a final, non-appealable decision to revoke.

Section 19-23-6 Jurisdiction and Venue

Any legal action, whether in law or equity, commenced by either party to the License, shall be commenced in the Superior Court of the State of Arizona, Maricopa County.

ARTICLE 19-24 ADDITIONAL GROUNDS FOR REVOCATION OR TERMINATION OF LICENSE

19-24-1 Bankruptcy
19-24-2 Foreclosure
19-24-3 Abandonment
19-24-4 Due Process

Section 19-24-1 Bankruptcy

The Town may revoke this License one hundred and twenty (120) days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the Licensee, whether in a

receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding, to the extent consistent with federal bankruptcy law.

Section 19-24-2 Foreclosure

In accordance with section 23(c), the Town may revoke this License if there is a foreclosure or other judicial sale of any of the facilities, equipment or property of Licensee, by serving notice on Licensee and the successful bidder at the sale. This License and all rights and privileges of this License will be revoked thirty (30) days after the Town serves notice under this subsection unless:

A. The Town has approved a transfer of the License; and by the terms and conditions of the License; or
B. The successful bidder has agreed with the Town to assume and be bound by the terms and conditions of the License.

Section 19-24-3 Abandonment

The Town may revoke this License if Licensee abandons, terminates, or fails to operate or maintain service to its subscribers for a period of one hundred eighty (180) days. In this case, the Town may:

A. Require the former Licensee to remove its facilities and equipment at the Licensee's or surety's expense, or at the expense of both, after determining that the Cable System cannot be economically maintained and operated;
B. Acquire ownership of the Cable System, to the extent otherwise permitted by law, at fair market value on the recommendation of the Town Manager and with the approval of the Council; and
C. After a public hearing, sell, assign, or transfer all or part of the assets of the Cable System abandoned by a Licensee for the best price offer obtainable. However, the legal, character, financial, technical, and other qualifications of the purchaser must meet Town approval.

Section 19-24-4 Due Process

A license may be terminated under this Article only after Licensee is afforded notice and hearing as provided for in Article 19-23.

ARTICLE 19-25 UNFORESEEN EVENTS AND FORCE MAJEURE

A. Licensee shall not be deemed in default of provisions of the License where performance was rendered impossible by acts of God, war, riots, civil disturbances, labor strikes, floods, or other circumstances beyond Licensee's reasonable control or not reasonably foreseeable, and the License shall not be revoked or Licensee penalized for such noncompliance, provided that Licensee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with the License without unduly endangering the health or safety of Licensee's employees or the integrity of its property, or the health or safety of the public, or the integrity of rights-of-way, public property, or private property.
B. With respect to any provision of this License or Chapter 19, the violation or noncompliance with which could result in the imposition of a financial penalty, forfeiture or any other sanction or enforcement procedure upon the Licensee, such violation or noncompliance will be excused if such violation or noncompliance is the result of an event of Force Majeure. The Licensee shall also be excused from performing any obligation to the extent such failure to perform is caused by a utility servicing or monitoring its utility poles, if any, to which the Licensee's facilities are attached. Furthermore, the parties hereby agree that it is not the Town's intention to subject the Licensee to penalties, fines, forfeiture or revocation of this License or the Ordinance for violations of this License Franchise or Chapter 19 where the violation was a good faith error that resulted in no or minimal negative impact on Subscribers.

ARTICLE 19-26 EFFECT OF TERMINATION OR EXPIRATION ON TELECOMMUNICATIONS SERVICES

If Licensee operates separate telecommunications services other than Cable Service over the Cable System, upon expiration, termination or revocation of this License for any reason, Licensee shall no longer provide Cable Service using the public rights-of-way or public easements in the Town. Licensee shall have a one-hundred eighty (180) day period thereafter to obtain from Town such licenses, permits or other approvals or agreements as may be lawfully required for Licensee to continue using the Cable System facilities for other telecommunications services. After such period, any right for the Cable System to be in public rights-of-way and public easements shall only be pursuant to such new licenses, permits or other approvals or agreements. Nothing herein shall be constructed to authorize Licensee to utilize the Cable System for anything over than Cable Services.

ARTICLE 19-27 CHANGES IN TECHNOLOGY AND DEVELOPMENT

Both technology and the community are rapidly changing. As such, continuous modifications to the System may be required to incorporate new technology or improve services. The Town or Licensee may determine upon mutual agreement that a change in the terms of the License is required to meet the needs and interests of the community, that the System or License requirements should be updated, changed, or revised, or that additional services should be provided locally. Upon request of Town or Licensee, the parties shall meet and negotiate in good faith proposed changes necessary to meet the needs of the community. As such changes are acceptable to each party, an amendment to the License may occur.

ARTICLE 19-28 UNLAWFUL SOLICITATION OR GIFTS

It is unlawful for any person to solicit, accept, or offer any gift, favor, loan, service, promise, employment, or anything of value to a Town official or employee, or for a Town official or employee to solicit or accept anything of value, for the purpose of influencing the grant, modification, renewal, transfer, or any other matter affecting a License or the administration or enforcement of this Chapter. Licensee shall not offer gifts as defined herein to the Town, its employees or assigns.

ARTICLE 19-29 TRANSFERS

19-29-1 In General
19-29-2 Application
19-29-3 Decision

Section 19-29-1 In General

Licensee's right, title, or interest under this License may not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Licensee at the time the License is issued, without the prior consent of the Town. No such consent shall required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Licensee in the License or Cable System in order to secure indebtedness.

Section 19-29-2 Application

An entity which seeks approval of a proposed transfer shall file an application for approval of that transfer no later than one hundred and twenty days (120) prior to the proposed effective date of the transfer. The application shall be accompanied by a fee as set forth in 19-6-2A.3. In making a determination to approve or disprove the application, the Town shall conduct an ascertainment process to consider the legal, financial and technical qualifications of the proposed transferee to operate the cable system in the same manner required by the Town for a renewal or new License, and within the guidelines established in federal law.

Section 19-29-3 Decision

The Town shall have one hundred and twenty (120) days following the submission of the application for transfer to render a decision. At the discretion of the Town Manager, the Town shall conduct a public hearing (if necessary) and if the Town does not render a decision within one hundred and twenty (120) days, the transfer shall be

deemed approved. Approval by the Town of a transfer of the License does not constitute a waiver or release of any of the rights of the Town under Town Code or the License Agreement, unless otherwise provided by law.

ARTICLE 19-30 RENEWAL OF LICENSE

19-30-1 Formal Renewal
19-30-2 Formal Renewal Process
19-30-3 Informal Renewal Process
19-30-4 Final Decision
19-30-5 Events After Denial Of Renewal
19-30-6 Appeal

Section 19-30-1 Formal Renewal

If an existing Licensee initiates a formal License renewal process under 47 USC § 546 (a) through (g) of the Cable Act, the Licensee must notify the Town, at least thirty-six (36) months and no later than thirty (30) months before the License expiration date.

Section 19-30-2 Formal Renewal Process

When the Town receives a notice from the Licensee, the Town shall take the following actions:

A. The Town will not begin review of any renewal request unless all applications and fees have been paid. The future renewal of this License is not effective until the Licensee has followed the renewal process including submittal of a completed application and the payment of the renewal fee. The Town shall notify the Licensee of the current amount of the renewal fee and current procedures for renewal.

B. The Town shall review and evaluate the future cable-related community needs and interests and the Licensee's past performance. The review and evaluation shall include opportunity for public comment.

C. On completion of the review and evaluation, the Town shall notify the Licensee that it may file a renewal application. The notice shall specify the information to be included in the renewal application and the deadline for filing the application. The filing deadline shall not be earlier than thirty (30) days after the date of the notice. If the Licensee does not submit a renewal application by the specified date, the License may not be renewed under this subsection.

D. The Town shall hold one or more public hearings on the renewal application when the application is received or provide some other procedure for public comment on the application.

E. After the public hearing or comment period, the Town Manager shall recommend to the Council that it either:
   1. Renew the License, as written, subject to the existing terms of the License Agreement satisfactory to the Town and the Licensee;
   2. Renew the License, subject to new or amended terms of the License Agreement satisfactory to the Town and the Licensee; or
   3. Issue a preliminary decision that the License should not be renewed.

F. Council action must be taken within four (4) months of the date of the renewal application notice to the Licensee.

G. In considering a renewal application, the Town must consider whether:
   1. The cable operator has substantially complied with the material terms of the existing License and with applicable law;
   2. The quality of the cable operator's service, including signal quality, response to consumer complaints, and billing practices has been reasonable in light of community needs (but without regard to the mix or quality, of cable services or other services provided over the Cable System);
   3. The cable operator has the financial, legal, and technical ability to provide the services, facilities, and equipment in its proposal; and
   4. The cable operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting the needs and interests.

H. If a preliminary decision is made that the License should not be renewed, at the request of the Licensee or on its own initiative, the Town must commence an administrative proceeding under 47 U.S.C. § 546 (c) of

the Cable Act. Parties to the hearing and the public must have thirty (30) days after the recommended decision is issued to comment. The Town Manager must recommend that the Council grant or deny an application within thirty (30) calendar days after the deadline for receipt of comments if the request requires that formal procedures are followed.

Section 19-30-3 Informal Renewal Process

If Licensee does not utilize the formal renewal process under the Cable Act, Licensee shall file an application for a license with the Town pursuant to section 19-5-1 at any time pursuant to 47 U.S.C. § 546(h), but at least six (6) months prior to expiration of the existing License. The Town must hold one or more public hearings or provide some other procedure for public comment on the proposal. After the public hearing or comment period, the Town Manager must recommend that the Council grant or deny the License renewal and the terms and conditions of any recommended renewal. A denial under this subsection shall not affect Licensee's formal renewal rights under the Cable Act.

Section 19-30-4 Final Decision

A. Regardless of formal or informal procedures, the Council must hold a public hearing on all renewal applications. After the public hearing, the Council must consider all of the evidence, either grant or deny the renewal application by written resolution, and give the findings of fact and reasons for its determination in the resolution.
B. The Council must hold a public hearing on the License Agreement prior to final Council action on the License.

Section 19-30-5 Events After Denial of Renewal

A. Subject to Article 19-26, if the Town denies the renewal of License, the Town may, on the recommendation of the Town Manager and with the approval of the Council and the Licensee, acquire ownership of the Cable System or transfer operation of the System to another company. Any acquisition or transfer under this subsection must be at fair market value, determined on the basis of the Cable System valued as a going concern.
B. Subject to Article 19-26, if the Town does not renew License, and to the extent consistent with applicable law, the Town has the option of (a) purchasing the Cable System if agreeable to Licensee, (b) require the Licensee or surety to remove the facilities and equipment at the Licensee or surety's expense, or (c) begin condemnation proceedings and permit the facilities to remain until ownership has been determined or bond surety collected.
C. If any or all of the components of the Cable System in, on or above the Town's rights-of-way are not removed within one year, the Cable System will be considered abandoned and becomes the property of the Town.
D. Notwithstanding anything to the contrary in this License, Town shall not require the removal, sale or other disposition of the Cable System until any judicial or administrative appeal of the Town's decision to revoke or not renew the License is final and non-appealable. Furthermore, if within thirty (30) days from said final decision Licensee commences and continues to make good faith efforts to sell its Cable System, Licensee shall have a period of one year from said final decision to transfer or sell its Cable System.

Section 19-30-6 Appeal

The Town Council's decision to not renew may be appealed to superior court. Subject to the Town police powers that may require immediate cessation of Licensee operations to protect the public health, safety, welfare and property, Licensee may continue to operate until there is a final, non-appealable decision to not renew.

ARTICLE 19-31 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The invalidity of any portion of the Chapter shall not abate, reduce or otherwise affect any consideration or other obligation required of the licensee or any license granted hereunder.

CHAPTER 20 TREE PRESERVATION AND PROTECTION

Article 20-1 Definitions

For the purposes of this chapter, the following words and phrases shall have the following meanings:

A. "Forest Plan" shall mean the Wickenburg Community Forest Plan adopted by the town council.

B. "Park Trees" shall mean trees, shrubs, bushes and all other woody vegetation in public parks, or to which the public has free access as a park, and all areas owned by the town other than rights-of-way.

C. "Street Trees" shall mean trees, shrubs, bushes and all other woody vegetation on public lands lying within the rights-of-way of all streets, avenues, boulevards, roads or ways within the town.

Article 20-2 Forest Plan

Section 20-2-1 Adoption of Forest Plan

The town's Tree Board USA shall recommend to the town council a forest plan. Upon receipt of the recommendation of the Tree Board USA, the town council shall adopt a forest plan which contains the type of trees which may be planted upon town streets and in parks and requirements for the care of such trees.

Section 20-2-2 Compliance with Forest Plan Required

All street trees and park trees shall be planted and maintained in compliance with the forest plan.

Article 20-3 Town Forester

Section 20-3-1 Designation of Town Forester

The Director of Parks, Recreation and Facilities is hereby designated as town forester.

Section 20-3-2 Duties and Responsibilities of Town Forester

It shall be the responsibility of the town forester to administer the forest plan and to annually make recommendations to the Tree Board USA for any modifications which may be needed to the forest plan.

Article 20-4 Tree Requirements Section

20-4-1 Planting

Street trees shall conform to the forest plan. No species other than those included in the forest plan may be planted as street trees or park trees without approval of the town tree board. The Tree Board USA may authorize exceptions to forest plan where it determines compliance is not feasible or in the best interest of the town.

Section 20-4-2 Prohibited Planting

It has been determined that olive trees produce large amounts of allergenic wind- borne pollens which are noxious and contribute to human diseases. Therefore, it shall be unlawful to plant within the town limits, the following species of trees:

Common Name	**Botanical Name**
Common Olive*	Oliea Europea

(The Council has identified mulberry trees as one they like)

*Olive trees which are pollenless and fruitless such as "Swan Hill Olive" may be planted.

Section 20-4-3 Public Tree Care

The town shall have the right to plant, prune, maintain, and remove all street trees and park trees as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public grounds. The town Tree Board USA may remove or cause or order to be removed, any tree or part thereof, which is in an unsafe condition or which is injurious to sewers, sidewalks, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious insect, pest or disease. This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of such trees is in accordance with the forest plan and this chapter.

Section 20-4-4 Posting of Signs, Reflectors, Numbers or Letters

It shall be unlawful for any person to nail, or affix by stapling, gluing, or other manner any sign, reflector, number or letter to any street tree or park tree within the town limits.

Section 20-4-5 Tree Removal on Public Property

No person shall remove or otherwise disturb any tree on any town-owned property without first obtaining written consent of the town forester. The person receiving permission shall abide by the forest plan.

Article 20-5 Interference with Town Tree Board

It shall be unlawful to prevent, delay or interfere with town personnel, the town Tree Board USA, the town forester or any of their agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees, as authorized in this chapter.

Adopted by Resolution No. 1609
Wickenburg Common Council
June 15, 2009

"Code of the West"

or

"How to Avoid Surprises, and Be a Good Neighbor When You're Buying, Building, and/or Developing in the Town of Wickenburg, Arizona"

A PUBLICATION OF THE
TOWN OF WICKENBURG TRAILS ADVISORY COMMISSION (TAC)

The "Code of the West" was first chronicled by the western novelist, Zane Grey. Men and women who settled the western frontier were bound by an unwritten code of conduct. In keeping with that spirit, we offer this information to help people who have chosen to build and/or live in the western rural desert community of Wickenburg, Arizona.

Welcome to Wickenburg, Arizona:

Life in this western rural desert community is rich and rewarding, treasured by both Wickenburg residents who have been here for generations, and those who have recently moved here. It is important that new property owners and homeowners know that life in Wickenburg is different from life in the "big city". The Town government cannot provide the same level of service that big city governments provide. The information included in the Town of Wickenburg's version of **"The Code of the West"** is designed to help you make an educated and informed decision as you consider purchasing or developing land in the Wickenburg. The residents of Wickenburg are proud of their generation's long commitment to creating a true western Town and a great place to visit and reside. Your desire to relocate here is proof of our success. Please understand that the way things were done where you came from is often the reason you left, we have no desire to recreate the reasons you left your former home.

What Kind Of ACCESS Is Available To Properties Located Inside The Town Limits?

The fact that you can drive to your property does not necessarily guarantee that you, your guests or emergency service vehicles (police, ambulance, fire truck) can get there easily. Please consider the following:

- Response times for emergency service vehicles cannot be guaranteed.
- There can be problems with the legal aspects of access, especially if you have access through a wash or across someone else's property. Make sure you have legal easements if you need them (i.e. deeded, not just verbal). You may want to get legal advice if you have questions regarding your access.

- The Town of Wickenburg maintains approximately seventy (70) miles of both paved and unpaved roads, but many private properties are served by private roads, which are NOT Town maintained. Some roads that have been used for many years by the public are not maintained by the Town (no grading, or repair of damages resulting from natural disasters). Make sure you know what kind of maintenance is available and who pays for it.

- Many large construction vehicles cannot navigate small, narrow and primitive roads. If you plan to build, check out construction access. Private driveways should be wide and sturdy enough to support either emergency or construction vehicles.

- If your driveway or private road accesses a Town road, you may need a Right-of-Way Use Permit**.** Call the Town of Wickenburg's Public Works Department at 928-684-2761 to find out. If your access is directly onto a County Road, you will need to check with the appropriate County Department of Transportation about getting a Right-of-way Use Permit.

- In some outlying areas, school bus transportation is not provided. Call the Wickenburg Unified School District Office at 928-668-5350 to find out the school bus boarding area closest to your property.

- In extreme weather, some roads may become impassable. You may need a four-wheel drive vehicle and perhaps even another mode of transportation to travel during those circumstances.

- Gravel and dirt roads generate dust. If you mind that, you may NOT want to be in an area which is accessible only by gravel or dirt roads, and for which no paving is planned. If you have a question about whether roads are scheduled for improvement, check with the Town of Wickenburg's Public Work's Department at 928-684-2716.

- Unpaved roads are not always smooth and are often slippery when they are wet. You may experience an increase in vehicle maintenance costs when you regularly travel on rural roads. Many of our roads have always been unpaved as it is our desire to keep our rural identity and cooler night time temperatures by keeping our desert roads. The Town has no desire or reserve for paving these roads. If you believe the dust from unpaved roads is unhealthy, we encourage you to find property in another area of the Town.

- The property that is an open desert today may not be forever. Check the recorded plat of your subdivision to see what uses is planned within it. In addition, check in the appropriate County Assessor's Office to determine if those uses may have been changed since the plat was recorded. You can also talk with the Town of Wickenburg Planning Department at 928-668-0500 about the process that properties currently undergo for a land use change, and how you would be notified if changes were proposed next to you.

- Newspaper, parcel and overnight package delivery, and U.S. Mail delivery may not always be available to rural areas. Check with the agencies that provide these services before assuming you can get delivery.

- It may be more expensive and time consuming to build a rural residence due to delivery fees and the time required for inspectors to reach your site.

How About Sewer, Water, Electricity, Telephone, Cable T.V., Internet and Natural Gas?

The utilities that you may be used to having when/if you lived in a big city may not be available in our desert rural community. Please think about these situations:

- The availability of telephone and Internet communication can be delayed, particularly in the more remote areas of the Town. It may be difficult or impossible to obtain a separate line for FAX or computer modem uses, and in some areas, cellular telephones do not operate. Check with the local telephone service

provider to find out what lines and services are available to you. High speed internet may only be available by satellite or other non-wired provider or it may not be available at all. Please check on the availability of high speed internet if this is important to you.

- If sewer service is available to your property, contact the Town of Wickenburg's Public Work's Department at 928-684-2761 to find out what the costs are to hook into it, and maintain it.

- If sewer service is not available, you will be using, or will have to install an individual sewage disposal system. If there is an existing individual sewage disposal system, have the septic tank pumped and inspected by a reliable service, or call the Maricopa County (602-506-6617) or Yavapai County (928-771-3214) (whichever is appropriate) Department of Environmental Services to get information about obtaining a permit or an inspection for an individual sewage disposal system.

- If a central treated water supply is available to your property, find out who supplies it, what the costs are to hook into it, and the monthly cost of service.

- Be sure you know what water rights are available with your property such as: Is there a well permit? If water is provided by a well located off your property, do you have an easement allowing you to access and repair it? You will not be able to drill a well without getting a permit from the Arizona Department of Water Resources (602-771-8500): you will need to know what kind of time and expense that may entail.

- Having a well permit does not guarantee that there will be water where you first dig for it. Consider those potential drilling and installation costs in your development planning.

- The Arizona Department of Water Resources, not the Town of Wickenburg, issues well permits. You can apply directly to the Division, through their office in Phoenix at 602-771-8500 or www.azwater.gov or by contacting a local well driller who can complete and submit the application for you.

- Electric and natural gas service may not be readily available in the more remote areas of the Town. Check with each of these service providers to make sure you have the services you want before you commit to a construction project.

- Some of your utility service lines may have to cross properties owned by other people in order for service to be extended to your property. Make sure the proper legal easements are in place to allow lines to be installed to your property.

- Electric power may not be available in single phase and three phase service configurations. If you have special power requirements, check with the service provider to ensure that those can be provided.

- The cost of electrical service usually includes both a fee to hook into the system (which may require extensive line installation if none exists), and a monthly charge for energy consumed. Check with the service provider about both costs in your area.

- Power outages can occur in outlying areas more often than in more developed areas. Not only can these disrupt your computer modem's Internet connection; you won't be able to get water from your well.

- Many remote areas of the Town are not wired for cable TV.

What Can I Do On My Property?

Many issues can affect your property in addition to those concerning utilities and access. It's important to research them before purchasing land.

- Many property owners do not own the mineral rights under the surface of their land. By federal law, owners of mineral rights have the right to extract the minerals, even if that activity changes "surface characteristics". It is important that you know what minerals may be located under your land and who owns them. Check your deed, and if you do not understand it, you may want to contact an attorney or another professional to help you.

- Even if you are provided with a plat for your property by your realtor, or other seller, you may wish to obtain the services of a licensed Arizona Surveyor to ensure the accuracy of your survey or check with the local jurisdictions Planning Department.

- Fences that separate properties may or may not be on legal boundary lines. A survey of the land is the only way to confirm the location of your property lines.

- Whether you want to construct a single family home, a guest house, subdivide, or open a store, your plans may require a Variance, Zone Change, Site Plan Review or a Special Use permit, as well as a Right-of-Way Use permit, an individual sewage disposal system permit, a building permit, a sign permit, a zoning clearance or must meet other requirements. Check with the Town of Wickenburg Planning Department at 928-668-0500 to find out what you need, and when you will need it.

- Many subdivisions and planned developments have Covenants, Conditions and Restrictions (C.C. & R's) and design guidelines that limit the use of the property. Find out if there is CC&R's (ask your realtor or check with appropriate County Recorder's Office – Maricopa County at 602-506-3535/Yavapai County at 928-771-3584). Make sure you can live with the rules of that subdivision. The By-Laws of the Association should outline how the organization operates and how dues are set, collected and spent.

- Other property owners may have easements, which require you to allow construction of roads, power lines, water lines, sewer lines and other utilities across your land, which may restrict your own development and building options. There may be easements that have not been recorded, but are "historic". Title abstract and title insurance companies, or an attorney can help you track this information.

- Trails. In order to protect our western lifestyle the Wickenburg Trails Advisory Commission (TAC) is actively involved in creating and protecting a system of trails throughout Wickenburg. Whether or not your property allows the keeping of horses it may have an easement for trails. These easements allow for access from areas in Town to recreational areas on public lands outside of Town and are considered vital to protecting our western lifestyle. In many municipalities, properties with direct trail access have been shown to be more desirable to buyers. Arizona Revised Statute §12-55S limits property owners liability for accidents by persons recreating across their property. If your property contains a Trail Easement it may not be fenced, blocked, or made impassable, even if it appears to be infrequently or unused. Creating hazards on trails to eliminate use does create liability on your part for any accidents resulting from the creation of a hazard. If having a Trail Easement across your property bothers or concerns you, or if you are bothered by hikers, cyclists, or equestrian traffic, perhaps you should consider a property located away from a Trail System or in another area.

- Homeowners and property owner associations are often responsible for the maintenance of roads, utilities and other common elements in subdivisions. Check the subdivision's covenants/deed restrictions to learn if an association has that responsibility; check with your realtor (or some of your future neighbors) to learn if the association is functioning. A dysfunctional or non-existent association can cause problems for you, and even involve you in expensive litigation. Dues are almost always a requirement for those subdivisions that have a Homeowners Association.

Ranching And The Keeping Of Livestock

- Ranching and the keeping of, recreational horses on an individual's property is allowed on parcels of 35,000 square feet or greater starting with R1-35 Single Family Residential Zoning Districts Keeping of other types of livestock require special zoning districts and you need to contact the Town of Wickenburg Planning Department at 928-668-0500 to determine proper zoning criteria. If you choose to live among and/or next to recreational ranching and/or farming operations on property that is zoned for livestock keeping, you may be affected by them. Learn how you can be a good neighbor to this important part of our community's history and character. Please read any C.C. & R.'s that may belong to your property as they may prevent the keeping of these types of animals. You are also advised to read Arizona Revised Statute Title 3 Article 8, "No-Fence Districts".

- Ranchers often work in the evening hours especially during our hot summer months. Occasionally, adjoining ranching activities may disturb your otherwise quiet surroundings. Those times will pass.

- If you are traveling on dirt and graveled roads adjacent to ranch or rural lands, drive slowly and with care. Occasionally horses and cattle may get out on the road; avoiding hitting an animal is healthy for both you and the animal.

- Ranch livestock, as well as, recreational livestock may cause odors and noise, which are objectionable to some people. If you find them annoying or are offended by the proximity to, odor of, or sight of manure or flies, you may want to find a property in another area of Town that is not zoned or adjacent to property that is zoned for the keeping of livestock.

- Horseback riders occasionally ride on public roads. When you encounter a rider slow down and act cautiously. The delay will cost you only a few minutes. Enjoy the scene; this is the "real west" and is a critical part of the character of our western desert rural community.

- Occasionally the horses may deposit manure on the roads. This manure will dry up and be gone in a few days. The rider is under no obligation to remove the manure.

You Can't Mess With Mother Nature (And Expect To Get Off Easily)

Western rural desert residents usually can expect to experience more challenges with the "elements" when they become unfriendly than residents who have access to municipal services.

- Desert vegetation is a wonderful environmental amenity, but can also endanger your home in case of a wild fire. The local Rural Fire Department Office (928-684-7702) can offer practical recommendations to help you protect your home from fire as well as protect the surrounding desert vegetation from igniting if your house catches on fire. If you start a wild fire, you could be found legally responsible for paying the costs of putting it out. Helping to prevent the catastrophe before it happens benefits you as well as your neighbors and the desert.

- Steep slopes can slide in unusual wet weather. Large rocks can also roll down steep slopes and present a great danger to people and property.

- In heavy rains washes are very dangerous. Please do not cross wash areas during these times.

- You may be required to have a Geotechnical Study conducted before you can obtain an individual sewage disposal system permit and building permit. Collapsing and expansive soils can buckle concrete foundations and twist steel I-beams.

- A property owner who builds his home near a dry wash may find that when it rains the water that drained through the wash now drains through his house. The topography of the land can tell you where the water will go when rain occurs.

- A property owner who builds or buys a home on or near a slope may find that when it rains the water that drains down and/or around his house now drains through his house. Again, the topography of the land can tell you where the water will go when rain occurs.

Wildlife:

Nature can provide you with some wonderful neighbors. However, some may be of concern to you and require extra care when you build and live in a rural or remote area.

- Coyotes, Javelina, foxes, skunks, bobcats, squirrels and deer can be simply annoying, destructive or dangerous, and you need to know how to deal with them.

- Threatened and endangered species of wildlife may be present in certain areas. Check with the Arizona Game and Fish Department at 602-942-3000 or www.azgfd.gov about concerns related to the area in which your property is located.

- Living in a western rural desert area may also bring you in to contact with other desert dwellers such as rattlesnakes, scorpions and black widow spiders. Be aware of what actions you should take if you should have a less than satisfactory encounter with any of these desert dwellers.

.....and A Few Final Thoughts:

- Though the Town of Wickenburg receives sales tax revenue from its local businesses, the amount of taxes collected generally do not cover the costs of services provided to the Town's residents. In general, other revenue sources subsidize the lifestyles of those who live in our western desert rural community by making up the shortfall.

- Please take the time and effort to study the history of the Town of Wickenburg. This will give you an understanding and appreciation for the pioneers who settled the land. It is our hope that through this understanding, you will approach your construction and development in a thoughtful and sensitive manner, to protect our unique community, our natural resources and our western historic way of life.

- The information in the Town of Wickenburg "The Code of the West" is not exhaustive. There likely will be issues that occur to you, or that you encounter, that are not included here.

- This "Code" is provided by the Town of Wickenburg Trails Advisory Commission. We offer this information and suggestions in the sincere hope they will help you as you decide to build, develop and live in Wickenburg.

COMMONLY NEEDED NUMBERS

Town Hall	928-684-5451
Town of Wickenburg Planning & Building	928-668-0500
Town of Wickenburg Public Works Department	928-684-2761
Town of Wickenburg Building Inspector	928-668-0513
Town of Wickenburg Police Department	928-684-5411
Town of Wickenburg Fire Department	928-684-7702
Town of Wickenburg Post Office	928-684-2138
Arizona Public Service (APS)	928-684-5471
Town of Wickenburg Electric Service	928-668-0520
Southwest Gas Corporation	800-873-2440
Maricopa County Assessor	602-506-3877
Maricopa County Planning	602-506-6150
Wickenburg School District Office	928-668-5350
Recycling Hot Line	928-684-5660
Arizona Blue Stake	800-782-5348

TOWN OF WICKENBURG TRAILS ADVISORY COMMISSION:

Scott Stewart ~ Council Liaison | Mike Cobb ~ Chairman
Bill Cavin ~ Vice-Chairman | John Amory ~ Commissioner
Diane Hardy ~ Commissioner | Dave Lookingbill ~ Commissioner
Cheri Noel ~ Commissioner | Mike Soloman ~ Commissioner