



NOTICE WORK STUDY SESSION  
OF THE TOWN OF GUADALUPE COUNCIL

MONDAY, OCTOBER 22, 2018

**IMMEDIATELY FOLLOWING THE REGULAR COUNCIL MEETING  
WHICH BEGINS AT 5:00 P.M.**

Valerie Molina  
Mayor

Anita Cota  
Vice Mayor

Gloria Cota  
Councilmember

Elvira Osuna  
Councilmember

Joe Sanchez  
Councilmember

Faustino Valenzuela  
Councilmember

Ricardo Vital  
Councilmember

Online agendas and  
results available at  
[www.guadalupeaz.org](http://www.guadalupeaz.org)

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Town of Guadalupe Council and to the general public that the Town of Guadalupe Council will hold a Work Study Session, open to the public, immediately following the Regular Council Meeting which begins at **5:00 P.M** on **Monday, October 22, 2018**, at Guadalupe Town Hall, 9241 South Avenida del Yaqui, Museum Room, Guadalupe, Arizona.

**AGENDA**

A. CALL TO ORDER

B. ROLL CALL

C. CALL TO THE PUBLIC. An opportunity is provided to the public to address the Council on items that are not on the agenda or included on the consent agenda. A total of 3 minutes will be provided for the Call to the Audience agenda item, unless the Council requests an exception to this limit. Please note that those wishing to comment on agenda items posted for action will be provided the opportunity at the time the item is heard.

D. DISCUSSION AND POSSIBLE ACTION ITEMS:

1. **TOWN OF GUADALUPE CODE OF ORDINANCES:** Council will review, consider and may direct the Town Manager to move forward with codification of proposed revisions to the Town of Guadalupe Code of Ordinances with American Legal Publishing Corporation.

E. ADJOURNMENT

Town Council Chambers  
9241 S. Avenida del Yaqui  
Guadalupe, AZ 85283  
Phone: (480) 730-3080  
Fax: (480)-505-5368



October 17, 2018

To: The Honorable Mayor and Town Council

From: Jeff Kulaga, Town Manager / Clerk

**RE: Monday, October 22, 2018 Work Study Session Meeting Information**

The purpose of this report is to provide brief information regarding the Work Study Session agenda item concerning the Town of Guadalupe Code of Ordinances.

**Work Study Session Agenda Item (immediately following the Regular Council Meeting which begins at 5:00 P.M.):**

**D1. Town of Guadalupe Code of Ordinances:** The Town of Guadalupe Code of Ordinances has not been updated since 1989. Over the past year, staff has been working on revising the Town Code. This includes: incorporating approximately 125 ordinances passed by the Town Council during the last 29 years, amending the zoning map to reflect zoning changes, update various fees, incorporating current business practices and eliminating outdated language and updating language to reflect current practices. As part of this effort, Arizona State University (ASU) Marvin Andrews Fellowship students from the Master's in Public Administration Program provided benchmarking analysis from other Arizona municipalities so that best practice comparisons could be made. In addition, American Legal Publishing Corporation, who will ultimately codify the code, challenged us with 55 questions, as part of the first review. Overall, this effort will bring the Town Code of Ordinances up to current standards.

Included with this item are ten attachments. The four are printed and the remaining six are provided electronically.

Printed:

1. ASU Guadalupe Final Report June 2018: This 18 page report provides the benchmarking comparisons completed by ASU students. **(Pages 1-19)**
2. Proposed amendments to the Town Code 10/16/2018: This 15 page summary includes the proposed amendments to the code. **(Pages 20-34)**
3. Revised Town Zoning Map. **(Page 35)**
4. Revised Town Right of Way and Alley Map. **(Page 36)**

Electronic: This is the proposed code in its entirety:

1. Code Titles: 10-35
2. Code Titles: 50-74
3. Code Titles: 90-112
4. Title: 113
5. Title: 130-153
6. Zoning Title

During the work study session, staff will review the proposed amendments to the code using the 15 page summary document.

***Town of Guadalupe Benchmarking***

***Marvin Andrews Fellowship Project- Summer 2018***



***Project Lead: Taylor Reimann***

***Contributors: Rachel Hudgens, Aaron Robinson***

The Town of Guadalupe is seeking to update the town code and fee schedules. To inform this update three graduate students from Arizona State University were asked to research and report on the code of cities comparable to the Town of Guadalupe. The following report is an at a glance document detailing fee schedules and code language from six comparable Valley cities (Apache Junction, Buckeye, Marana, Queen Creek, Tempe, and Tolleson). This report provides a baseline understanding of standard code practice in the Greater Phoenix Area.

While creating the comparison report on six municipalities in the Valley we found that each community had its own methods, sometimes simple, sometimes complex in setting and describing how fees are charged. Fees are one vehicle used to ensure that there is adequate funding to perform certain functions by the locality. In many instances, municipalities use different measures and units of analysis when applying fees and definitions. These differences are often times shaped by the character and the need in an area. With that said, we have attempted to illustrate several fees and definitions that were of interest to officials in Guadalupe in a way that is as intuitive as possible. As you read please be mindful of the differences in units and measurements used by each municipality.

***Town of Guadalupe Benchmarking***

***Marvin Andrews Fellowship Project- Summer 2018***



***Prepared By:***

***Rachel Hudgens, Taylor Reimann, Aaron Robinson***

Executive Summary: The Town of Guadalupe is seeking to update the town code with more appropriate and current fees. The following report is an at a glance document benchmarking fees from comparable cities. This report will aid the Town and Council to restructure fees and codify new laws into existing documents.

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## Introduction

While creating the comparison report on six municipalities in the Valley (Apache Junction, Buckeye, Marana, Queen Creek, Tempe, and Tolleson), we found that each community had its own methods, sometimes simple, sometimes complex in setting and describing how fees are charged. Fees are one vehicle used to ensure that there is adequate funding to perform certain functions by the locality. In many instances, municipalities use different measures and units of analysis when applying fees and definitions. These differences are often times shaped by the character and the need in an area. With that said, we have attempted to illustrate several fees and definitions that were of interest to officials in Guadalupe in a way that is as intuitive as possible. As you read please be mindful of the differences in units and measurements used by each municipality.

# Fees/Permits

## Subdivision Regulations

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**Guadalupe**     **\$25 plus \$2 per lot for preliminary plan review and \$50 plus \$2 per lot.**

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**Apache Junction** Preliminary plat- \$1,267 and \$42/lot to a maximum of \$5,500  
 Final plat- \$716 and \$17/acre  
 Amend final plat or replat-\$500

**Buckeye**     DIVISION OF PROPERTY  
 Abandonment, Lease, or Purchase of Right-of-Way (Excludes Lease / Purchase Price) \$2,500  
 Reversion to Acreage \$1,850  
 Map of Dedication, Per Sheet (Subsequent Reviews see Engineering Section) \$800  
 Lot Split, Minor Subdivision \$1,000  
 Lot Combination \$1,000  
 Preliminary Plat  
     Base Application Fee, Plus \$4,500 (Per Lot Fee 40)  
     Preliminary Plat Time Extension \$2,600  
 Final Plat  
     Base Application Fee, Plus \$3,000 (Per Lot Fee 30)

**Marana**     Subdivision Design Exception Report \$ 140.00 per report  
 Type 2 Grading Permit; Residential Subdivisions see note per permit Fee is the greater of \$500.00 or 1% of the construction costs or 3.5% of the construction cost for the Town acting as Engineer of Record. Fees paid at time of application based on cost estimate. If actual cost is higher, remaining balance is paid prior to permit closeout.

**Queen Creek**     Subdivision Planning/Zoning Review Fees- \$1,000 + \$20/lot

**Tempe**     Chapter 35 Zoning and Development Fees (G) Subdivision Including Condominiums Fee Schedule:  
 Preliminary/finals/amendment: \$2,583.00 + \$26.00 per lot or condo unit

**Tolleson**     (A) Each subdivision, as defined herein, shall be accompanied by a completed application form as provided by the city, and a non-returnable/non-refundable filing fee in accordance with the fee schedule adopted by the city. Each submission of a preliminary plat for conditional approval in accordance with § 12-2-21 shall be accompanied by non-returnable/non-refundable per page review fee in accordance with the fee schedule adopted by the city. Each submission of a final plat for final approval in accordance with of § 12-2-22 shall be accompanied by a non-returnable/non-refundable per page review fee in accordance with the fee schedule adopted by the city. (B) The following is the list of non-returnable/non-refundable per page review fees applicable to this article.  
 Preliminary Plat \$200 per page  
 Final Plat \$200 per page

## Zoning – Filing Fees/Review Requests *Conditional Use Permits*

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**Guadalupe**     **Conditional Use Permit (CUP) \$50**

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**Apache Junction** Conditional Use Permit \$700  
 Conditional use permit amendment \$700  
 Conditional use permit extension \$700  
 Conditional use permit continuance \$250  
 CUP (Residential use/extension/amendment) \$700  
 CUP (Non-residential use/extension/amendment) \$800  
 CUP for comprehensive sign package \$800  
 Landscape Ordinance Appeal by CUP \$600

<u>Buckeye</u>	CUP \$1,600 CUP requiring engineering analysis \$2,100
<u>Marana</u>	CUP Application Fee \$ 1,000.00
<u>Queen Creek</u>	Residential \$250 + \$30/acre + \$50 fire review Commercial \$1,000 + \$30/acre + \$50 fire review
<u>Tempe</u>	N/A
<u>Tolleson</u>	The Planning and Zoning Commission or the Council may grant a conditional use permit or request the applicant to conform to specific requirements imposed by the Commission or the Council <i>Note: No fees explicitly stated</i>

## Zoning – Filing Fees/Review Requests

### *Single Family Residential*

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#### Guadalupe      **Single Family Residential \$100**

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<u>Apache Junction</u>	Rezoning to SFD on 1.25 gross acres or less \$1,450 Rezoning to SFD on site larger than 1.25 acres \$1,450 and \$50/acre to a maximum of \$5,500
<u>Buckeye</u>	Residential Design Review \$1,100 Residential or Commercial Design Review Amendment \$500
<u>Marana</u>	Specific Plan; Residential Land \$1400.00 + \$50.00 per acre per application Maximum fee not to exceed \$35,000.00
<u>Queen Creek</u>	Residential Site Plan Review \$1,300 + \$50/acre
<u>Tempe</u>	Preliminary Review Process \$129
<u>Tolleson</u>	Site Plan Reviews Application (a) Single Family Residential Districts \$750.00 plus \$350 per page fee

## Zoning – Filing Fees/Review Requests

### *Variances*

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#### Guadalupe      **Zoning Variance \$25**

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<u>Apache Junction</u>	Variance for single-family dwelling (SFD) \$250 Variance for commercial, multi-family or industrial \$60 Continuance of variance case by applicant \$250 Residential Variance \$500 Non-residential Variance \$750
<u>Buckeye</u>	Variance \$2,600
<u>Marana</u>	Variance Request \$ 550.00
<u>Queen Creek</u>	Residential Minor \$100 Residential Standard \$500 Commercial \$1,000

<u>Tempe</u>	Chapter 35 Zoning and Development Fees, (C) Variances: Single Family Dwelling Units: \$451.00 per lot, including use permits. All other Uses: \$1,291.00 each
<u>Tolleson</u>	Variance Requests \$250.00 Plus \$200 per page

## Sign Permits

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### Guadalupe Minimum charge of \$15 or 50 cents per square foot of sign area

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<u>Apache Junction</u>	Building Fees-Sign Permits based on valuation Annual special sign permit fees: (A) Off-site development sign; 1 sign per application: \$300; and (B) Weekend directional sign: (1) Up to 5 signs: \$300; (2) Six to 10 signs: \$350; and (3) Eleven to 15 signs: \$400
<u>Buckeye</u>	Comprehensive Sign Plan \$1,600 Street Sign \$25.00 Sign Permit Based on Valuation (BOV)
<u>Marana</u>	Sign Review Fee \$ 75.00 Per plan Fee is \$75.00 for up to 2 signs and \$150.00 for 3 or more signs. Sign Review Fee: 3 or more signs \$ 150.00 Total fee for 3 or more signs Signs; Temporary sign; \$ 10.00 Per sign Fee does not apply for construction zones per Town Sign Code Signs; Planned sign program \$ 560.00 Per submittal Includes 1st & 2 <sup>nd</sup> submittals. Reviews after 2nd submittal and revisions to accepted plans are each charged 30% of original fee.
<u>Queen Creek</u>	Sign Permit Application \$125 per individual sign Comprehensive Sign Package \$750
<u>Tempe</u>	Chapter 35 Zoning and Development Fees, Sign Permits (K): Fees include Plan Review, the initial inspection and one re-inspection. One Sign: \$259.00 Each additional sign: \$98.00 Unauthorized Installation of sign(s): Twice the normal fees
<u>Tolleson</u>	Temporary signs are limited to the following time periods: 1. Subdivision advertising signs: sell out of subdivision or maximum of two years. 2. Construction/development signs: completion of development plus 30 days. 3. Grand opening signs/pennants: 30 days. One time permit for this 30-day event. 4. Political signs: shall not be displayed more than 60 days before a primary election and shall be removed within 15 days after election. 5. Sandwich or portable signs - permit required - \$15 for a maximum 3 days per week, maximum 3 square feet, and signs must be removed at the end of that day. Failure to remove the sign shall result in citation by enforcement officer of the Code Enforcement Department. 6. Yard sale signs - permit required - \$5 for 2 signs for a 2-day yard sale, maximum 2 square feet, signs shall be removed at the end of that day. Failure to remove shall result in citation by enforcement officer of the Code Enforcement Department.

## Billboards

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### Guadalupe \$1,500 minimum or \$3 square foot of sign area

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<u>Apache Junction</u>	(E) Billboards. (1) New billboards. No billboards shall be erected within the city limits, including along the freeway.
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- (2) Existing billboards. Existing billboards may be required to be removed as a condition of rezoning, subdivision plat or CUP approval.
- (3) Illumination. Billboards with existing external illumination deemed legal non-conforming by the Zoning Administrator shall be allowed. No new internal or external lighting of billboards shall be allowed.
- (4) Compliance with state law. All existing billboard signs shall comply with applicable provision of A.R.S. §§ 9-461, et. seq.

Buckeye Digital Billboards; Application Fee \$0; Monthly Fee \$0

Marana Signs; Renewal Fee; Billboard \$ 500.00 Per sign (Non-conforming)

Queen Creek Prohibited Signs  
Off-site Sign. Any form of remote signage, such as off-premises advertising signs or billboards

Tempe (A)The tax rate shall be at an amount equal to one and eight-tenths percent (1.8%) of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising". All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "local advertising", except the following: (1) The advertising of a product or service which is sold or provided both within and without the State by more than one (1) "commonly designated business entity" within State, and in which the advertisement names either no "commonly designated business entity" within the State or more than one (1) "commonly designated business entity". "Commonly designated business entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one (1) legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement. (2) The advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State. (3) The advertising of a product which may only be purchased from an out-of-state supplier. (4) Political advertising for United States Presidential and Vice-Presidential candidates only. (5) Advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity. (6) Advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

Tolleson Billboards and other outdoor advertising companies shall be considered to be doing business within the City to the extent they have billboards or similar displays within the City. Sec. 8A-405. Advertising.

(a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising". All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "Local Advertising", except the following:

- (1) the advertising of a product or service which is sold or provided both within and without the State by more than one "commonly designated business entity" within the State, and in which the advertisement names either no "commonly designated business entity" within the State or more than one "commonly designated business entity". "Commonly Designated Business Entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.
- (2) the advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.
- (3) the advertising of a product which may only be purchased from an out-of-State supplier.
- (4) political advertising for United States Presidential and Vice-Presidential candidates only.
- (5) advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.

(6) advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

## Party Permits

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<u>Guadalupe</u>	<b>\$5.00 fee, \$45 more if amplified music</b> <b>Penalties assessed: Not to exceed \$2,500.</b>
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<u>Apache Junction</u>	N/A
<u>Buckeye</u>	Class 1 Permit: Minor Encroachment Permit (Block Party - Police Department) Permit Application Process Fee: No Fee
<u>Marana</u>	Park Rental Bundle \$ 300.00 Per Date Reservation of all rentable park spaces, utilities, Event Application Fee, Beer & Wine Permit. (Additional fees for liquor license may apply for public events). Special Event Permit \$ 50.00 Per application Does not apply to events produced by the Town or where park exclusive use fee is paid. Includes safety inspection. Right-of-way and traffic control review if applicable to event. Special Event Expedited Review Fee \$ 25.00 Per application Plus any other applicable fees. Applies if application submitted less than 7 calendar days before event. Does not apply to events produced by the Town.
<u>Queen Creek</u>	N/A
<u>Tempe</u>	Special Event License Fee (b) Special event license application fee: \$25.00 (d) Special event license permit fee: \$25.00/da
<u>Tolleson</u>	Review Fee \$75 Class 1: Special events and sales that have little to no impact on City resources, such as grand openings, sidewalk sales. Class 1 Permit \$25; additional \$25 expedited fee if submitted less than 5 days before the event Class 2: Special events and sales that have some impact on city resources but impact is minimal, such as, special vehicle sales or seasonal sales that remain mostly on private property; parades limited to sidewalks. Class 2 Permit \$50; additional \$50 expedited fee if submitted less than 5 days before the event Class 3: Special events and sales that have a high impact on city resources, such as a parade in city streets or rights-of-way, street fair, celebration, concert, or similar entertainment or recreational activity or experience. Class 3 Permit \$175; additional \$150 expedited fee if submitted less than 30 days before the event

## Cable Companies

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Guadalupe **\$15,000 application. If review costs exceed the \$15,000, the applicant shall pay the excess costs.**

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<u>Apache Junction</u>	Application Fee (1) For an initial license or renewal: \$2,500; (2) For consent to transfer or change ownership: \$2,000; and (3) For license modifications: pursuant to 47 U.S.C. § 545: \$2,500.
	License Fee (1) Pay annually to the city 5% of the licensee's gross revenue
	Annual Special Sign Permit Fees 1. Offsite Development Sign, \$300.00 one sign per application 2. Weekend Directional Sign: a. up to five signs \$300.00 b. six to ten signs \$350.00 c. eleven to fifteen signs \$400.00

Buckeye Class 5 Permit: Encroachment Permit for Fiber Optic Cable, Interstation Services and Other Communication Facilities Excluded from the Definition of "Telecommunications"  
License Application Fee \$160.00  
Class 6 Permit: Encroachment Permit for Cable Television  
Permit Application Fee EA \$160.00  
Additional Permit Services (Inspection, Construction Maintenance and Operations)  
PER HOUR \$100.00  
Pavement Restoration Fee (See Table Below)  
PAVEMENT RESTORATION FEES  
1 to 99 SY,, plus SY \$26.00  
100 to 499 SY, plus SY \$7.00  
500 to 1,759 SY, plus SY \$2.00  
1,760 SY or greater SY \$0.80  
*Note: Other Utility Items - refer to individual utility fees for additional items*

Marana Cable Television Franchise License; Application Fee \$ 1,000.00 Per application (Non-refundable)

Queen Creek A. Application Fee. Each application for a license to be granted under the authority of this chapter shall be accompanied by a non-refundable filing fee in the amount specified below, by certified or cashier's check made payable to the town.  
Non-refundable filing fees in the following amounts are required:

1. For an initial license or renewal: \$2,500.
2. For consent to transfer or change ownership: \$2,000.
3. For license modifications:
  - a. pursuant to 47 U.S.C. Section 545: \$2,500.
  - b. any other modification: up to \$2,000.

Tempe Cable License Fee: \$10-12: Application fees for initial cable license: \$5,000.00

Tolleson Subject to the limitation of applicable federal and state law, when such interconnection is required within the city limits, the cost shall be borne by all licensees to be interconnected. If licensees cannot establish a cost sharing formula for interconnection or cannot resolve technical issues, the City Manager may establish a cost sharing formula and resolve technical issues and his decision shall be final and conclusive.

## Business License Fees

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Guadalupe **Carnival \$100/day**  
**Junk collectors \$100/quarter**  
**Junk dealers \$50/quarter**  
**Massage parlor \$100/month, \$75/month per attendant**  
**Mobile stands \$100/year**  
**Palmistry/fortune telling \$100/month, \$75/month per attendant**  
**Pawnbrokers \$300/year**  
**Salesperson (door to door) \$100/year**  
**Secondhand stores \$50/quarter**  
**Special event (more than one day) \$35/event**  
**Special event (one day) \$25/event**  
**Stands \$55/year, \$25/quarter**  
**All other businesses, occupations, professions, trades, or callings \$55/year**

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Apache Junction Initial/Renewal  
Basic \$50/\$50  
Duplicate/replacement \$25/\$25  
Operating \$0/\$0

<u>Buckeye</u>	<p>Alarm Agent \$100 Application Fee, \$100 Agent Fee          Alarm Business \$100 Application Fee, \$100/Year          Care Facilities \$40/Year, \$25 Application Fee          Carnivals, Circus and Road Shows \$100/Day, \$25 Application Fee          Contractors and Builders \$100/Year, \$25 Application Fee          Mercantile Business – Wholesale &amp; Retail \$40/Year, \$25 Application Fee          Mobile Food Vendors \$150/Year or \$50 Monthly, \$25 Application Fee          Mobile Vendors \$100/Year or \$50 Monthly, \$25 Application Fee          Professional &amp; Personal Services \$40/Year, \$25 Application Fee          Restaurants &amp; Bars \$40/Year, \$25 Application Fee          Sexually Oriented Business \$1000 Application Fee, \$1000 Investigation Fee, \$100 Annual License Fee, \$200 Employee Application Fee          Solicitors &amp; Peddlers – Fixed Base          Business in Buckeye \$100/Year, \$25 Application Fee          Solicitors &amp; Peddlers – No Business Location in Buckeye \$250/Year, \$ 25 Application Fee          Special Event – Sponsors \$100/Event          Tattoo and/or Body Piercing Establishment \$100 Application Fee, \$100 Annual License Fee, \$100 Employee Application Fee          Background and Fingerprinting Fee \$50 Per Applicant          Late Fee \$25          Reinstatement or Replacement Fee \$25</p>
<u>Marana</u>	<p>Business License; Full Year; Annual Renewal Fee \$ 40.00 Per year Non-refundable          Business License; Temporary Business License; Short-Term Vendor (Events 10 consecutive days or less); Peddlers; Solicitors; Transient Merchants \$ 20.00 Per license, License available only for Peddlers, Solicitors, and Transient Merchants, License is valid for a maximum period of 10 days.          Business License; Sexually Oriented Business; Initial or Annual Renewal Fee \$ 500.00 Per license Non-refundable          Employee License; Sexually Oriented Business; Initial or Annual Renewal Fee \$ 50.00 Per license \$40.00 Refundable if license application is denied</p>
<u>Queen Creek</u>	<p>New application: \$60          Renewal fee: Business within the town limits: \$40/year          Renewal fee: Business without a fixed place of business within town limits: \$60/year          Late Penalty: 25% of the renewal fee</p>
<u>Tempe</u>	<p>License and Business Regulations:          Required; duration; fee.          (a) It shall be unlawful for any person to act within the City as an auction house, scrap dealer, pawnbroker or secondhand dealer without first obtaining a license to do so from the Internal Services Director or his authorized representative.          (b) The license shall be issued for a calendar year or portion thereof, and a new application shall be required for each subsequent calendar year.          (c) The license fee shall be established by City Council</p>
<u>Tolleson</u>	<p>\$ 60.00 All businesses WITH a fixed place of business located within the City of Tolleson's city limits.          \$ 120.00 All businesses WITHOUT a fixed place of business within the City of Tolleson's city limits.          I.E: Supply Co, Ice Cream Vendors, Door to Door Sales/solicitors. (Please call for verification).</p>

## Liquor License Fees

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<u>Guadalupe</u>	<p><b>Beer and wine store application: \$100, Issuance: \$1,550, Annual: \$800</b>  <b>Club application: \$100, Issuance: \$1,150, Annual: \$800</b>  <b>Hotel/motel application: \$100, Issuance: \$2,000, Annual: \$800</b>  <b>In state producer application: \$100, Issuance: \$1,850, Annual: \$800</b>  <b>Microbrewery application: \$100, Issuance: \$600, Annual: \$800</b>  <b>Restaurant application: \$100, Issuance: \$2,000, Annual: \$800</b></p>
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Apache Junction Notwithstanding any other required fee, all dealers in alcoholic beverages shall submit a \$50 non-refundable application fee to the city prior to the Council public hearing on the state liquor license application to cover the cost of conducting such public hearing.

Liquor License- Initial fee \$25 Renewal fee \$25

Type of Permit: Initial Fee/Renewal Fee

Distiller's Permit: \$225.00/\$22.50

Brewer's Permit: \$225.00/\$22.50

Winer's Permit: \$225.00/\$22.50

Hotel-Motel Permit to sell all spirituous liquors: \$450.00/\$45.00 by individual portions and in the original containers

Hotel-Motel Permit to sell all spirituous liquors: \$450.00/\$45.00

Hotel-Motel Permit to sell beer and wine by: \$150.00/\$15.00 individual portions and in the original containers

Hotel-Motel Permit to sell beer by individual: \$112.50/\$11.25 portions and in the original containers

On-Sale Retailer's Permit to sell all spirituous liquors: \$300.00/\$30.00 by individual portions and in the original containers

On-Sale Retailer's Permit to sell beer and wine by: \$150.00/\$15.00 individual portions and in the original containers

On-Sale Retailer's Permit to sell beer by individual: \$112.50/\$11.25 portions and in the original containers

Off-Sale Retailer's Permit to sell all spirituous liquors: \$112.50/\$11.25

Off-Sale Retailer's Permit to sell beer and wine: \$112.50/\$11.25

Off-Sale Retailer's Permit to sell beer: \$75.00/\$7.50

Club Permit to sell all spirituous liquors: \$75.00/\$7.50

Restaurant Permit to sell all spirituous liquors: \$450.00/\$45.00

Buckeye

In-State Producer - Series 1: \$500 Application Fee, \$1000/Year

Out-of-State Producer - Series 2: \$500 Application Fee, \$1000/Year

Domestic Microbrewery - Series 3: \$500 Application Fee, \$1000/Year

Wholesaler - Series 4 \$500 Application Fee

Government - Series 5 \$500 Application Fee

Bar (all spiritous liquor) - Series 6 \$500 Application Fee, \$500/Year

Beer & Wine Bar Only - Series 7 \$500 Application Fee, \$400/Year

Conveyance - Series 8 \$500 Application Fee, \$100/Year

Liquor Store (all spirituous liquor) - Series 9 \$500 Application Fee, \$400/Year

Beer & Wine Store Only - Series 10 \$500 Application Fee, \$200/Year

Hotel/Motel (with restaurant) Series 11 \$500 Application Fee, \$400/Year

Restaurant - Series 12 \$500 Application Fee, \$400/Year

Domestic Farm Winery - Series 13 \$500 Application Fee, \$1000/Year

Private Club - Series 14 \$500 Application Fee, \$200/Year

Special Event (temporary license) - Series 15 \$100 Annual Fee

Wine Festival/Wine Fair - Series 16 \$100 Annual Fee

Direct Shipment Lease - Series 17 \$100 Annual Fee

Marana

Liquor License Application: Original License; Location Transfer; Person Transfer \$ 500.00 Per application Fee is in addition to any fees payable to the State of Arizona Department of Liquor Licenses and Control.

Liquor License Application; Extension of Patio Premises; permanent or temporary \$ 25.00 Per application Fee is in addition to any fees payable to the State of Arizona Department

Liquor License Application; Acquisition of Control Change or Change of Agent \$ 150.00 Per application Fee is in addition to any fees payable to the State of Arizona Department of Liquor Licenses and Control.

Queen Creek

Liquor license fee: \$200.00

Tempe

Alcoholic Beverages License Fees

Tax Rate Schedules: Tax rate schedule for continuing licenses and new licenses

issued on or before June 30th of any calendar year: Number and type and annual tax rate:

1. In-state producer's license: \$1,000.00

2. Out-of-state producer's license: \$1,000.00

3. Domestic Microbrewery: \$1,200.00
4. In-state wholesaler's license: None
5. Government license: \$200.00
6. Bar license: \$1,200.00
7. Beer and wine license: \$500.00
8. Conveyance license: \$400.00
9. Liquor store license: \$450.00
10. Beer and wine store license: \$300.00
11. Hotel/motel license: \$1,200.00
12. Restaurant/Continuance license: \$1,200.00
13. Domestic farm winery license: \$400.00
14. Private club license: \$300.00
15. Special event ..... (see below)
16. Wine festival/wine fair: \$25.00 per day/per event If a liquor license is issued on or after July 1st of any year, three-fourths of the annual license fee shall be charged.

<u>Tolleson</u>	Liquor Sales/Establishments:
	\$ 400.00 On-Sale retailer - spirituous
	\$ 300.00 - wine and beer
	\$160.00 - beer only
	\$ 300.00 Off-Sale retailer - spirituous
	\$ 160.00 - wine and beer
	\$120.00 - beer only

## Bathhouse/Massage Parlor License Fees

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Guadalupe      **\$100 per month for operator, \$75 per month for attendant**

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Apache Junction      Massage: There is a \$50 business license fee per business type and location.

Buckeye      Massage Parlor \$100 Application Fee, \$100 Annual License Fee, \$100 Employee Application Fee

Marana      Massage Establishment License; Application Fee \$ 200.00 Per application Non-refundable  
 Massage Establishment Manager License; Application Fee \$ 75.00 Per application Non-refundable  
 Massage Establishment License; Full Year; Initial Fee \$ 100.00 Per license Refundable if license application is denied  
 Massage Establishment Manager License; Full Year; Initial Fee \$ 50.00 Per license Refundable if license application is denied  
 Massage Establishment License; Full Year; Annual Renewal Fee \$ 100.00 Per year Non-refundable  
 Massage Establishment Manager License; Full Year; Annual Renewal Fee \$ 50.00 Per year Non-refundable  
 Massage Establishment Location Change Application Fee \$ 25.00 Per application Non-refundable

Queen Creek      N/A

Tempe      Massage Establishments Nonrefundable application fee for massage or bodywork establishment ..... \$100.00  
 Massage or bodywork establishment license ..... \$100.00 Fingerprint processing fee ..... (direct cost) Photograph fee  
 ..... \$10.00 Renewal of massage or bodywork establishment license (due on or before December 31st) ..... \$100.00  
 Late renewal penalty fee ..... \$ 50.00

Tolleson      Massage parlors or any business that includes or employs a licensed massage therapist \$60 annually.

# Definitions/Review

## Building Codes Chapter Review

<u>Guadalupe</u>	<b>Uniform Building Code, 1997 Edition</b>
<u>Apache Junction</u>	<p>Apache Junction City Code Chapter 7 Conformity with the Apache Junction City Code, Volume II, Land Development Code, Chapter 1 Zoning Ordinance</p> <p>2006 International Building Code</p> <p>2006 International Residential Code</p> <p>2006 International Fire Code</p> <p>2005 National Electric Code</p> <p>1994 Uniform Plumbing Code</p> <p>2006 International Mechanical Code</p> <p>1997 Uniform Administrative Code</p> <p>Arizonans with Disability Act</p> <p>1997 Uniform Code for the Abatement of Dangerous Buildings</p> <p>    Mobile/Manufactured Home Standards</p> <p>    Requirements for Swimming Pool Enclosures</p> <p>    Building Security Standards</p>
<u>Buckeye</u>	<p>2012 International Residential Code</p> <p>2012 International Mechanical Code</p> <p>2012 International Plumbing Code</p> <p>2011 National Electrical Code</p> <p>2012 International Fuel Gas Code</p> <p>2012 International Energy Conservation Code</p> <p>2012 International Existing Building Code</p>
<u>Marana</u>	<p>The 2012 international building code, with local amendments.</p> <p>The 2012 international plumbing code, with local amendments.</p> <p>The 2012 international residential code, with local amendments</p> <p>The 2012 international mechanical code, with local amendments.</p> <p>The 2012 international property maintenance code, with local amendments.</p> <p>The 2012 international energy conservation code, with local amendments.</p> <p>The 2011 national electric code, with local amendments.</p> <p>The 2012 international fire code, with local amendments.</p> <p>The 2012 international fuel gas code</p>
<u>Queen Creek</u>	<p>International Building Code, 2012 edition</p> <p>International Residential Code, 2012 edition</p> <p>International Mechanical Code, 2012 edition</p> <p>National Electrical Code, 2011 edition</p> <p>International Plumbing Code, 2012 edition</p> <p>International Fuel Gas Code, 2012 edition,</p> <p>International Existing Building Code, 2012 edition</p> <p>International Energy Conservation Code, 2012 edition</p> <p>International Property Maintenance Code, 2012 edition</p> <p>International Urban-Wildland Interface Code, 2012 edition</p> <p>International Fire Code, 2012 edition</p>
<u>Tempe</u>	<p>2012 International Residential Code</p> <p>2012 International Building Code</p> <p>2012 International Mechanical Code</p> <p>2012 International Plumbing Code</p> <p>2012 International Fuel Gas Code</p>

## 2012 International Electrical Code

<u>Tolleson</u>	The 2012 international building code, with local amendments. The 2012 international plumbing code, with local amendments. The 2012 international residential code, with local amendments The 2012 international mechanical code, with local amendments. The 2012 international property maintenance code, with local amendments. The 2012 international energy conservation code, with local amendments. The 2011 national electric code, with local amendments. The 2012 international fire code, with local amendments. The 2012 international fuel gas code
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*Note: The Uniform Building Code was replaced by the International Building Code in 2000 by the International Code Council.*

## Definition of Juvenile

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<u>Guadalupe</u>	<b>It shall be unlawful for any juvenile 16 years of age or older and under the age of 13 years to be, remain, or loiter in, about, or upon any place in town...</b>
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<u>Apache Junction</u>	It is unlawful for any person 14 years of age and under 18 years of age to remain upon... (do not define juvenile)
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<u>Buckeye</u>	N/A
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<u>Marana</u>	<p>“Juvenile” or “minor” means any person who has not yet reached eighteen years of age. 1. “Curfew hours” means the following:</p> <ol style="list-style-type: none"> <li>a. For juveniles under 16 years of age, between the hours of 10:00 p.m. and 5:00 a.m. of the following day.</li> <li>b. For juveniles on or after the sixteenth birthday, but prior to the eighteenth birthday, between the hours of midnight and 5:00 a.m. of the following morning.</li> </ol>
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<u>Queen Creek</u>	<p>"Minor" means any person less than eighteen years of age.</p> <p>It is unlawful for any minor under the age of sixteen years to be in, about or upon any place in the town away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.</p> <p>It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about or upon any place in the town away from the property where the child resides between hours of 12:00 a.m. and 5:00 a.m.</p> <p><i>Enforcement.</i></p> <ol style="list-style-type: none"> <li>1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in subsection C of this section is probably present.</li> <li>2. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of paragraphs 1 or 2 of subsection B of this section is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of the minor that such parent, guardian or other person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.</li> </ol>
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<u>Tempe</u>	It is unlawful for any minor under the age of sixteen (16) years to be in, about, or upon any place in the City away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.
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<u>Tolleson</u>	It is unlawful for any person under the age of 18 years to idle or loiter upon the streets or public places of the city between the hours of 10:00 p.m. and 5:00 a.m. unless the person is accompanied by a parent, guardian or some person of lawful age having legal custody of the person. It is unlawful for any parent, guardian or other adult person
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having the care and custody of the minor to encourage or allow the minor to idle or loiter upon the streets or public places between the hours of 10:00 p.m. and 5:00 a.m. unless accompanied by the parent or guardian.

## A.R.S for Variance

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<b><u>Guadalupe</u></b>	<b>A.R.S. § 9-465 (1956)</b>
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<u>Apache Junction</u>	A.R.S. §§ 9-462, et seq.
<u>Buckeye</u>	N/A
<u>Marana</u>	N/A
<u>Queen Creek</u>	Zoning Ordinance Article 1- General Provisions: VARIANCE. In accordance with A.R.S. 9-462, a grant of relief from the requirements of this Ordinance which permits construction in a manner that would otherwise be prohibited by this Ordinance.
<u>Tempe</u>	A.R.S. §§ 9-462, et seq.
<u>Tolleson</u>	N/A

## Spitting

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<b><u>Guadalupe</u></b>	<b>It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the town or upon any public path, by-way, or highway, or in or on any public ground or park or upon the floor or interior of any public building in town.</b>
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<u>Apache Junction</u>	It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the city or upon any public path, by-way or highway or in or on any public ground or park in the city, or upon the floor or interior of any public building in the city.
<u>Buckeye</u>	N/A
<u>Marana</u>	N/A
<u>Queen Creek</u>	It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the town or upon any public path, by-way or highway, or in or on any public ground or park in the town, or upon the floor or interior of any public building in the town.
<u>Tempe</u>	N/A
<u>Tolleson</u>	N/A

## Noise Definition/Enforcement

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<b><u>Guadalupe</u></b>	<b>"Loud noises" are not defined</b>
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<u>Apache Junction</u>	(A)"...offensive to the senses, or so as to disturb the slumber, peace and quiet or otherwise interfere with or annoy the comfortable enjoyment of life or property of any considerable number of persons in the neighborhood and is no less a nuisance because the extent of the annoyance inflicted is unequal"
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(B) It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.

(C) It is hereby declared to be a public nuisance and is unlawful for any person, firm or corporation to engage in construction activities as delineated below, within the corporate limits of the city, during the prohibited times set forth in division (D) below, when those activities result in the generation of mechanically or electrically created noise that can be heard by a person with normal hearing within a residential building, the windows of which are closed, if the building is located within 500 feet of the construction site. CONSTRUCTION ACTIVITIES include, but are not limited to, the following:

- (1) The making of an excavation, clearing of surface land and loading or unloading material, equipment or supplies; and
- (2) The operation of mechanically powered tools, including but not limited to, a cement mixer, pole driver, power shovel, pneumatic hammer, derrick or power hoist.

(D) The prohibited time periods for construction activity are as follows:

- (1) Before 5:00 a.m. Arizona State Time and after 6:30 p.m. Arizona State Time, Monday through Friday from April 15 to October 15;
- (2) Before 6:00 a.m. Arizona State Time and after 6:30 p.m. Arizona State Time, Monday through Friday during the remainder of the year; and
- (3) Before 7:00 a.m. Arizona State Time and after 5:00 p.m. Arizona State Time on Saturdays and Sundays throughout the year and holidays recognized by the city.

(E) The following activities shall be excluded from such prohibition:

- (1) Noise generated by work being performed by a resident of a building or structure, which may continue until 9:00 p.m., but may not begin earlier than the times set forth in division (D) above; and
- (2) Noise resulting from an emergency, including but not limited to, repair of roofs, windows, doors and electrical, plumbing and mechanical equipment. An EMERGENCY means any situation where work must be performed in order to prevent serious physical injury to persons or property.

(F) The construction activities noted in division (E)(2) above may be conducted at prohibited times, if upon written application, a permit is obtained before the activities commence, from the City Manager or a designee. The written application must contain information which demonstrated that the need to engage in the activity is an urgent necessity, and barring the activity would constitute an unreasonable hardship on the applicant.

- (1) If the City Manager or a designee determines that granting of the permit would impair the public health, safety and welfare, the permit shall be denied. If determined otherwise, the permit shall be granted and the construction activity allowed to take place during any or all of the prohibited hours.
- (2) In determining whether to grant the permit, the City Manager or a designee shall balance the hardship to the applicant against the adverse impact on the health, safety and welfare of the persons most likely affected, the adverse impact on the property affected and any other adverse effects of granting the permit.
- (3) Permits shall be granted by giving written notice to the applicant with any necessary conditions, including a time limit on the permitted activity, which in no case shall exceed 30 days. The permit shall not become effective until all conditions are communicated in writing, understood and agreed upon by the applicant. Noncompliance with any condition in the permit shall be grounds for revocation of the permit. An applicant may appeal the refusal to issue a permit or the revocation of a permit to the Council, who has the final authority to grant, refuse or revoke a permit.

(G) Violation of any provision of divisions (C) through (F) above is a misdemeanor and punishable pursuant to Vol. I, § 1-1-11.

#### Buckeye

Disturbing and Unnecessary Noise Prohibited

#### Marana

It is hereby declared to be a public nuisance, and it is unlawful for any person, to play or permit to be played any music or musical instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal. It is unlawful to play, operate or use any device known as a sound truck, loud speaker or sound amplifier, radio or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless the person in

charge of the vehicle shall have first applied to and received permission from the chief of police to operate the vehicle so equipped.

#### STATIONARY NOISE | SOURCE STANDARDS

Maximum noise levels measured at property line

7:00 a.m. to 10:30 p.m.—Not to exceed 55dBA

10:30 p.m. to 7:00 a.m.—Not to exceed 50dBA

#### Queen Creek

A. It is hereby declared to be a public nuisance, and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.

B. It is unlawful to play, operate, or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the chief of police to operate any such vehicle so equipped.

C. It is unlawful for any person:

1. To operate a motor vehicle, that is not at all times equipped with a muffler upon the exhaust system. This muffler must be in good working order and in constant operation so as to prevent excessive or unusual noise. It is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.
2. To operate a truck or other motor vehicle in such a manner as to cause the engine to emit additional noise from its exhaust or muffler system through deceleration or through a practice commonly known as jake braking.

D. It is unlawful for any person, establishment, corporation or institution to allow or cause excessive, loud, or unusual noise, between the hours of 10:00 p.m. and 6:00 a.m. It shall be prima facie evidence that a noise is loud, excessive or unusual if it can be heard by a person, who has normal hearing ability, for a distance of two hundred feet or more from its source.

F. Unnecessary Noise

1. Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person without justification to make or continue, or cause or permit to be made or continued, any unnecessary, excessive or offensive noise, which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.
2. The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following:
  - (a.) The volume of the noise;
  - (b.) The intensity of the noise;
  - (c.) Whether the nature of the noise is usual or unusual;
  - (d.) Whether the nature of the noise is natural or unnatural;
  - (e.) The volume and intensity of the background noise, if any;
  - (f.) The proximity of the noise to residential sleeping facilities;
  - (g.) The nature and zoning of the area within which the noise emanates;
  - (h.) The time of the day or night the noise occurs;
  - (i.) The duration of the noise;
  - (j.) Whether the noise is recurrent, intermittent or constant;
  - (k.) Whether the noise is produced by a commercial or noncommercial activity;
  - (l.) Whether it is an impulse noise.

#### Tempe

Unnecessary noise.

(a) Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person without justification to make or continue, or cause or permit to be made or continued, any unnecessary, excessive or offensive noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

(b) The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following:

- (1) The volume of noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the origin of the noise is natural or unnatural;
- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and zoning of the area within which the noise emanates;
- (8) The density of the inhabitation of the area within which the noise emanates;
- (9) The time of the day or night the noise occurs;
- (10) The duration of the noise;
- (11) Whether the noise is recurrent, intermittent or constant;
- (12) Whether the noise is produced by a commercial or noncommercial activity;
- (13) Whether it is a pure tone noise; or
- (14) Whether it is an impulse noise.

Tolleson

(A) It is a public nuisance and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person in the neighborhood and is no less a nuisance because the extent of the annoyance inflicted is unequal.

(B) It is unlawful to play, operate or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle, unless the person in charge of the vehicle shall have first applied to and received permission from the city to operate any vehicle so equipped.

(C) It is unlawful for a street vendor to ring bells, blow whistles, blow horns, play music or use any noise making device in connection with the vending of any products of any nature within the city.

**Noise**  
*Dog Barking*

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

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Apache Junction      It is unlawful and hereby declared a public nuisance for any person to harbor or keep any animals which habitually bark, howl, yelp, squeal, shriek or make any other sounds which disturb the peace and quiet of the neighborhood, or in such a manner as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by a considerable number of persons.

Buckeye                      N/A

Marana                        N/A

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

Tempe                         N/A

Tolleson                      N/A

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**Guadalupe**      **1972 edition**

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Maricopa Association of Governments (MAG)- MAG uses the 2014 revision of the 2012 edition-  
[http://www.azmag.gov/portals/0/Documents/2014\\_Specifications\\_and\\_Details\\_Book.pdf](http://www.azmag.gov/portals/0/Documents/2014_Specifications_and_Details_Book.pdf)

*Note: POTW - publically owned treated works*

**Proposed amendments to the Town Code of Ordinances  
FOR COUNCIL REVIEW  
OCTOBER 22, 2018**

**§ 10.99 PENALTY. #19**

(A) Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a Class 1 Misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed **\$2,500 (changed from \$1,000)** or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment Each day that a violation continues shall be a separate offense punishable as hereinabove described. **#19 b**

(B) Any violation of or failure or refusal to do or perform any act required by Title **VII** of this code constitutes a civil traffic violation unless otherwise provided in that chapter. Civil traffic violations are subject to the provisions of A.R.S. Title 28, Chapter **5 (changed from Chapter 6, Articles 20 and 21,)** and amendments thereto. **#19 a**

(C) Any person who is convicted of a misdemeanor criminal offense in the municipal court and who, as a consequence, is incarcerated in the county jail, may as a part of any sentence imposed by the municipal court he required to reimburse the town for its actual expense incurred to the county by reason of such confinement in an amount to be set from time to time by the Council and tracking the amount paid by the town for jail services for every prisoner day not to exceed the monetary limits established in division (A) above.

(1989 Code, § 1-8) (Ord. 90-04, passed 8-8-1990; Ord. 1991-01, passed 2-14-1991)

**#19 c (We are not including provisions for civil enforcement)**

**§ 30.023 POWERS AND DUTIES OF THE MAYOR.**

The powers and duties of the Mayor shall include the following: **(remove .)**

(A) **Remove** He or she) **Shall** be the chief executive officer of the town.

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

(C) **Remove** He or she) **Shall** enforce the provisions of this code.

(D) **Remove** He or she) **Shall** execute and authenticate by **(remove his or her)** signature such instruments

as the Council or any statutes, ordinances, or this code shall require.

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

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

- (1) Imposition of a curfew in all or any portion of the town;
- (2) Ordering the closing of any business;
- (3) Closing to public access any public building, street, or other public place; and/or

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

(G) (Remove He or she) Shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the town.  
(1989 Code, § 2-2-4)

**§ 30.040 PRIMARY ELECTION.**

(Add:) When determining the primary election results under the nonpartisan election procedure as set forth in the relevant Arizona Revised Statutes, any candidate who shall receive, at the primary election, a majority of all the votes cast shall be declared to be elected to the office for which he or she is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate; provided that if more candidates receive a majority than there are offices to be filled, then those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected.

(1989 Code, § 2-3-1)

**§ 30.045 ELECTION DATES.**

The primary election shall be held on every even-numbered year on the tenth Tuesday prior to a general election at which candidates for public office are to be elected. The date for the general election shall be on the first Tuesday after the first Monday in November of every even-numbered year (delete: the third Tuesday of March of every odd-numbered year. The date for the general election shall be the third Tuesday of May of every odd-numbered year.) Title 16 Chapter 2 A.R.S. 16-201 & A.R.S. 16-211(Delete (1989 Code, § 2-3-6))

## COUNCIL PROCEDURE

**§ 30.060 REGULAR MEETINGS.**

The Council shall hold regular meetings on the second and fourth Thursday of each month at **6:00 (changed from 7:00)** except when the day fixed for any regular meeting of the Council falls upon a day designated by law as a legal holiday. If the meeting falls on a legal holiday, it shall be held at the same hour on the next succeeding day not a holiday unless otherwise properly noticed by the town. When a regular meeting falls on that Thursday known as Holy Thursday (Maunday Thursday, Jueves Santos), the regular meeting for that week shall be canceled. All regular meetings of the Council shall be held at the location specified in the notice of the meeting. (1989 Code, § 2-4-1) (Ord. 92-01, passed 6-25-1992) **Resolution 2017-01**

**§ 30.063 QUORUM. #20**

**(Remove** A majority of the Council shall constitute a quorum for transacting business, but a lesser number may adjourn from time to time and compel the attendance of absent members **and insert:)** **The common council shall, by ordinance, fix the time and place of holding stated meetings, and the council may be convened at any time by the mayor. A majority of the councilmen shall constitute a quorum for transacting business but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalty as the council may, by ordinance, have previously prescribed. No such adjournment shall be a day beyond the next stated meeting of the council.** (1989 Code, § 2-4-4), **(insert cite:) A.R.S. §9-233**

**30-065 ORDER OF BUSINESS.**

- (1) Call to order;
- (2) Roll call,
- (3) Invocation/Pledge of Allegiance;
- (4) Approval of minutes;
- (5) Call to the public;
- (6) Thru (9) remain the same

**30.083 EFFECTIVE DATE OF ORDINANCES.**

Confirm : 30 day after adoption provision.

**31.20 TOWN MANAGER.**

(b) change “direct the Treasurer” to Direct the Finance Director....

**31.21 TOWN CLERK.**

Duties as **Clerk (delete Treasurer.) (Delete sentence** The Clerk shall hold tile office of Town Treasurer and shall prepare such financial reports and perform such other duties as may be directed by the Town Manager.) The Clerk shall also perform the duties of tile town executive secretary as the Town Manager may direct.

**§ 31.22 TOWN MARSHAL.**



The Marshal shall be the Chief of Police and he or she shall perform such duties as may be required of him or her by law and as the Council may deem necessary. **For police protection and public safety services, the Town is authorized to contract with other law enforcement agencies and when this is done by the Town, the person assigned by the contracting agency to interact with the Town shall be deemed the Town Marshall.** (1989 Code, § 3-2-3)

31.41 (B) Remove this section. Re: Zoning administrator shall serve without pay.

### § 33.31 ADOPTION OF THE UNIFORM FIRE CODE.

The Uniform Fire Code, **2012 (changed from 1997)** Edition, (UFC 2012) copyrighted by the International Conference of Building Officials and the Western Fire Chief's Association, and the Uniform Fire Standards 2012 **(changed from 1997)** Edition (UFS 2012) **with modifications as adopted by the Arizona State Fire Marshall** are hereby adopted as the Uniform Fire Code and the Uniform Fire Standards of the town and are made a part of this subchapter the same as though said Code was specifically set forth in full hereafter, at least three copies of said Codes shall be filed in the office of the Clerk and kept available for public use and inspection.

(1989 Code, § 4-3) (Ord. 2001-01, passed 1-25-2001)

### § 34.03 POWERS AND DUTIES OF TOWN MAGISTRATE.

(G) Prepare reasonable personnel rules and regulations for employees of the town court. Said rules must be approved by the presiding judge of the Superior Court in the county and ratified by the Town Council which may not withhold its ratification without due cause. During any period of time where said personnel rules are not in force or where a situation arises that is not covered by these rules, then the **most recent** Judicial Merit System Resolution and Rules adopted by the Superior Court of the county **(delete on May 6, 1998,)** shall apply; **#22**

### 34.06 HOME DETENTION AND ELECTRIC MONITORING.

A (2) (e) The defendant is not eligible pursuant to A.R.S. § **9.499.07 (delete 59-499.07)**, as amended. **#23**

### § 34.20 IN GENERAL.

(A) The town recognizes and respects the division of powers between the legislative branch and the judicial branch. It enforces the concept that a judge must remain independent and free to exercise his or her responsibilities pursuant to Administrative Order 83-11, **as revised by Order 1-17-90** State Supreme Court, and the **most recent Arizona** Code of Judicial Conduct **(delete Ethics)** and **Arizona Code for Judicial Administration (ACJA)**. For this reason, the Town Council enacts this subchapter to provide appropriate enforcement of the above mentioned standards. **#24**

## CHAPTER 35: FINANCES AND TAXATION

Remove the provisions for the Arts Commission and make 35.20 the only section in this chapter. 35.20 is the town tax code.

## 50.22 APPLICATION FOR TAPS. SEWER

(A) ~~(Delete this paragraph. Connection fee increased to eliminate this fee~~ Any person desiring to make a sewer tap shall notify the Public Works Director at least 24 hours prior to making the tap, and shall pay to the town \$25 for an inspection fee. No sewer tap shall be made unless a town inspector is present at the tap site.)

(B) ~~(Change to section D from E)~~ All sewer taps shall be inspected and approved by the town. (Ord. 89-07, passed 8-24-1989; Ord. 2006-03, passed 3-23-2006)

**50-070 USER CHARGE SYSTEM—SEWER Definitions:**

**DEPARTMENT.** ~~(Remove~~ The Public Works Department. ~~and insert new wording:~~ Those officers, agents or designees of the town manager who supervise public works operations and are responsible for the public works of the town.

~~Delete~~ **DIRECTOR.** The Public Works Director.

50.073 GENERAL REQUIREMENTS-SEWER

File an annual PPTW user report with the Director by the first of January of each year commencing January 1, 1985. ~~(delete the following;~~ which provides an update to the information obtained pursuant to subsection ????????, paragraph ????????.) This reporting requirement does not apply to industrial users operating pursuant to an industrial user permit; #28

50-074 SPECIFIC REQUIREMENTS-SEWER

(A) Obtain an industrial discharge permit from the Director. ~~(Remove this sentence thus eliminating the cites=~~Any application for a permit or an amended permit shall contain the information specified by 40 C.F.R. § 403.12(b)(1) through 403.12(b)(7) and C.F.R. § 40333.12(c)(1) through 40333.12(c)(3)). Any person intending to commence any new industrial discharge(s), or any additional industrial discharge(s) not already allowed pursuant to an existing permit, shall first obtain a new or an amended industrial discharge permit, as applicable, from the Director prior to initiating such discharge(s); #29

**§ 50.092 FEE SCHEDULE; COLLECTION; EXEMPTIONS; DISPOSITION.**The sewer development fee to be charged by the town is established in accordance with the following schedule:

<i>Sewer Development Fee</i>	
<i>User Classification</i>	<i>Fee</i>
Detached unit:	
Detached dwelling unit per unit, including mobile manufactured homes	\$750
Townhouses	\$750
Condominiums, multi-family dwellings, and recreational vehicles per unit	\$750
Commercial/industrial user:	
<b>Water meter size inches</b>	
5/8	\$750
¾	\$1,090
1	\$1,730
1-1/2	\$3,384
2	\$5,285
3	\$10,435
4	\$17,305

6	\$34,070
---	----------

90.03 NOISES. Change to read: It is unlawful and hereby declared a public nuisance for any person to harbor or keep any animals which habitually bark, howl, yelp, squeal, shriek or make any other sounds which disturb the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. #32

#### 71.14 SPEED LIMITS-TRAFFIC CONTROL

(B)Remove section B and related map relating to designation of alleys. Felt that the map is not necessary.

(Add new subsection 71.15 Traffic Control Markings and Devices.

All traffic control markings and devices used in the Town will be in conformance with the Uniform Manual on Traffic-Control Devices.)

#### § 73.05 WARNING SIGNS.

Prior to enforcement of this chapter, the Manager will cause appropriate warning signs in compliance with the *(Change Uniform Manual on Traffic-Control Devices to) Manual on Uniform Traffic-Control Devices* to be placed at appropriate intervals on streets where through heavy truck traffic is banned.

(Ord. 2001-07, passed 9-27-2001)

CHAPTER 90 Animals Generally

#### § 90.03 NOISES. #32

It is unlawful and hereby declared a public nuisance for any person to harbor or keep any animals which habitually bark, howl, yelp, squeal, shriek or make any other sounds which disturb the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. (Remove wording: It is unlawful to harbor or keep any animals that disturb the peace by loud noises at any time of the day or night.)

(1989 Code, § 6-1-3) Penalty, see § 90.99

#### § 90.21 THE STATE VETERINARIAN AND THE (replace LIVESTOCK BOARD with) THE DEPARTMENT OF AGRICULTURE.

#### CHAPTER 91: FIREWORKS

#### 91.07 LIABILITY FOR EMERGENCY RESPONSES RELATED TO USE OF FIREWORKS: DEFINITIONS.

(B)The expenses of an emergency response are a charge against the person liable for those expenses pursuant to division (A) above. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities, or not-for-profit entities that incurred the expenses. (Delete sentence=The person's liability for the expense of an emergency response shall not exceed [Dollar Amount] 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. #35

#### § 92.20 PREPARATION OF REFUSE. HEALTH & SANITATION

All refuse shall be prepared for collection or disposed of as follows.

(A) *Garbage.* *(Replace subsections 1 & 2 and change sections (B) thru I with the following:)*

(1) Residential garbage will be picked up at the residents' curbside by a waste collection company hired by the town. Garbage containers will be provided each residential structure in the town. The maximum total weight of the waste placed in the containers shall not exceed one hundred pounds. All garbage shall be placed in plastic bags before being placed in the container.

(2) Containers found to be no longer serviceable will be replaced by the contracted waste collection company.

(B) *Trash.* Trash shall not be placed in containers provided for residential pickup except as provided in Subsection (F) (2).

(C) *Brush.* Brush shall be cut into such a size that will allow it to be placed in the provided residential container and allow the lid of the container to close.

*(Remove Section D) Rubbish.* Rubbish shall be neatly piled or bundled and placed at a point easily accessible to the collection service. Tree limbs and other foliage waste shall be cut in lengths not to exceed four feet and not over 50 pounds in weight.

(D) *(change from subsection E to D) Appliances and vehicles.* The customer shall, at their sole cost, remove or cause to be removed all appliances, vehicles, or equipment classed as refuse from his, her, or their premises or the public right-of-way.

*(E) (change from subsection F to E) Building materials.*

(1) All owners, contractors, and builders of structures shall, upon the completion of any structure, gather up and haul away, at their sole cost and expense, all refuse of every nature, description, or kind, which has resulted from the building of such structure, including all lumber scraps, shingles, plaster, brick, stone, concrete, and other building material, and shall place the lot and all nearby premises utilized in such construction in a **clean (remove: sightly)** condition.

(2) Residential customers may dispose of small amounts of building materials from time to time, providing it is placed in a container as described above and contains no concrete, masonry, or soil.

(F) *(change from G to F) Disposal of industrial and construction rubbish.* It shall be the responsibility of the owner, tenant, lessee, or contractor to dispose of all industrial and construction rubbish and waste accumulated as a result of construction and industrial operations.

*(G) (change from H to G) Dangerous and hazardous waste.* Dangerous and hazardous wastes shall be disposed of in accordance with standards established by the Environmental Protection Agency and the disposal shall be the responsibility of the customer.

(H) *(change from subsection I to H) Soil and concrete.* Waste soil, concrete, masonry blocks, sod, and rocks shall be disposed of by the owner, tenant, or occupant of the premises **at the sole cost and expense to the party disposing of such materials.**

(1989 Code, § 10-2-1) Penalty, see § 92.99

#### § 92.21 LOCATION FOR PICK UP.

All refuse placed in the town provided plastic container shall be placed at the front of the property line or parkway by 6:00 am on the day of collection. All containers and piles of refuse shall be so located as to not block the street, sidewalk, or gutter, or otherwise be a hazard to pedestrian or vehicular traffic.

(1989 Code, § 10-2-2) Penalty, see§ 92.99

**§ 92.23 USE OF CONTAINERS.**

(A) It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that he or she does not own or is not entitled to use as a tenant.

(B) Only town residents shall dispose of locally generated residential garbage or trash in containers furnished by the town or other collector for the accumulation, storage, and collection of all locally generated residential garbage or trash.

(C) Any nonresident of the town who disposes of any refuse or trash in any container furnished by the town or other collector for the accumulation, storage, and collection of all locally generated residential garbage or trash in violation of § 92.23 shall be punishable by a fine of not more than \$500 (remove 350) or no more than 30 days in jail or both.

(1989 Code, § 10-2-4) Penalty, see§ 92.99

**§ 95.05 FEES. PARTY PERMITS**

(A) A non-refundable (remove application) fee of \$5 shall be paid to the town by the applicant. (remove= to cover administrative costs shall be paid to the town by the applicant.)

**§ 96.99 PENALTY. ABANDONED VEHICLES ON PRIVATE PROPERTY**

(A) It is unlawful for any owner, tenant, lessee, occupant, or other person to fail, neglect, or refuse to abate the nuisance as provided in this chapter, and upon conviction thereof, may be punished by a fine of not more than \$500 (remove 300) or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

**§ 97.99 PENALTY. PARK REGULATIONS**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (Remove section B Upon conviction for violation of§ 97.01, the sentence to be imposed shall be a fine of not more than \$500 or imprisonment for not more than. 30 days or both.

(1989 Code, § 12-2-1) (Ord. 2003-09, passed 9-25-2003))

**§ 111.08 FEES. BUSINESS LICENSE TAX**

(A) License fee schedule.

<i>Type</i>	<i>Fee</i>
Carnival	\$100 per day

Junk collectors	\$100 per quarter
Junk dealers	\$50 per quarter
Massage parlor	\$100 per month, \$75 per month per attendant
Mobile vendors (remove the word stands)	\$100 per year/ \$50 per month
Palmistry/fortune telling	\$100 per month, \$75 per month per attendant
Pawnbrokers	\$300 per year
Salesperson (door to door)	\$100 per year
Secondhand stores	\$50 per quarter
Special event (more than one day)	\$35 per event
Special event (one day)	\$25 per event
Stands (Delete this category)	\$55 per year/\$25 per quarter
All other businesses, occupations, professions, trades, or callings	\$55 per year

113.001 CABLE REGULATIONS. In definitions, LICENSE, change reference to Chapter 35 of the town code to Chapter 111.#39

### CHAPTER 130: GENERAL OFFENSES

**Delete 130.09 referring to slaughter houses, controlled by the State and 130.14 referring to spitting and renumbering divisions.**

#### Section

- 130.01 Interference with religious, cultural, civic, or other events
- 130.02 Dangerous constructions
- 130.03 Excavations to be covered
- 130.04 Explosives
- 130.05 Fences - barbed wire or electric
- 130.06 Curfew
- 130.07 Noise
- 130.08 Obstruction of view
- 130.09 Offensive business **delete this section**
- 130.10 **09** Offensive premises
- 130.11 **10** Prostitution
- 130.12 **11** Searchlights
- 130.13 **12** Signs and banners
- 130.14 Spitting **delete this section**
- 130.15 **13** Water flow upon streets prohibited
- 130.16 **14** Storage of refrigerators and the like

### CHAPTER 130: GENERAL OFFENSES.

#### 130.06 CURFEW

130.06 CURFEW (B) Change to read: It shall be unlawful for any juvenile 16 years or age or older and under the age of 18 years to .....original wording had 13 in place of 18 years old. #40

**Remove section D below and insert codifiers recommended wording.**

(A) It shall be unlawful for the parent, guardian, or other adult person having the care, custody, or supervision of a juvenile to permit such juvenile to be, remain, or loiter in, about, or upon any place in the town away from the dwelling house or usual place of abode of said juvenile in violation of divisions or (B) above; provided, that these provisions do not apply when the juvenile is an emancipated minor, or when the juvenile is accompanied by his or her parent, guardian, or other person having the care, custody, or supervision of the juvenile; or where the juvenile is on an emergency errand; or where the juvenile is on reasonable, legitimate, and specific business or activity (including returning directly to home from legitimate religious celebrations and cultural events) directed or permitted by his or her parent, guardian, or other person having the care, custody, or supervision of such juvenile.



#40 a) and b)

- (D) This section does not apply to a minor who is: (1) Accompanied by the minor's parent or guardian; (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop; (3) In a motor vehicle involved in interstate travel; (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop; (5) Involved in an emergency; (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence; (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor; (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or (9) Married or had been married or had disabilities of minority removed in accordance with state law.

**130.06 CURFEW (D) Codifiers suggested wording added:** This section does not apply to a minor who is: (1) Accompanied by the minor's parent or guardian; (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop; (3) In a motor vehicle involved in interstate travel; (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop; (5) Involved in an emergency; (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence; (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor; (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or (9) Married or had been married or had disabilities of minority removed in accordance with state law.

Add section (C)

**130.07 NOISE Add Section (C)** The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following: (1) The volume of noise; (2) The intensity of the noise, (3) Whether the nature of the noise is usual or unusual, (4) Whether the origin of the noise is natural or unnatural; (5) The volume and intensity of the background noise, is any; (6) The proximity of the noise to residential sleeping facilities; (7) The nature and zoning of the area within which the noise emanates; (8) The density of the inhabitation of the area within which the noise emanates; (9) The time of day or night the noise occurs; (10) The duration of the noise; (11) Whether the noise is recurrent, intermittent or constant; (12) Whether the noise is produced by a commercial or noncommercial activity; (13) Whether it is a pure tone noise, or (14) Whether it is an impulse noise. #41

**150.01 Adoption of the Uniform Building Code, 2012 Edition.**

**150.01 ADOPTION OF FEE SCHEDULE:**

<i>Total Valuation</i>	<i>Fee</i>
\$1 to \$500	\$47 <b>change to \$50</b>
\$501 to \$2,000	\$47 <b>change to \$50</b> for the first \$500 plus \$6.10 <b>\$5</b> for each additional \$100 or fraction thereof to and including \$2,000
\$2001 to \$25,000	\$138.50 <b>change to \$150</b> for the first \$2,000 plus \$28 <b>\$21.00</b> for each additional \$1,000 or fraction thereof to and including \$25,000
\$25,001 to \$50,000	\$782.50 <b>change to 850</b> for the first \$25,000 plus \$20.20 <b>\$19</b> for each additional \$1,000 or fraction thereof to and including \$50,000
\$50,001 to \$100,000	\$1,287.50 <b>change to \$1450</b> for the first \$50,000 plus \$14 <b>\$10</b> for each additional \$1,000 or fraction thereof to and including \$100,000
\$100,001 to \$500,000	\$2,687.50 <b>change to \$2150</b> for the first \$100,000 plus \$11.20 <b>\$8</b> for each additional \$1,000 or fraction thereof to and including \$500,000
\$500,001 to \$1,000,000	\$7,167.50 <b>change to \$6000</b> for the first \$500,000 plus \$9.50 <b>\$6</b> for each additional \$1,000 or fraction thereof to and including \$1,000,000
\$1,000,001 and up	\$11,917.50 <b>change to \$9700</b> for the first \$1,000,000 plus \$7.30 <b>\$4.</b> for each additional \$1,000 or fraction thereof

<i>Other Inspections and Fees</i>	
Inspections outside of normal business hours, minimum charge = 2 hours	\$47 <b>\$50</b> per hour*
Reinspection fees assessed under the provisions of § 305.8	\$47 <b>\$50</b> per hour*
Inspections for which no fee is specifically indicated, minimum charge = 1/2 hour <b>1 hour</b>	\$47 <b>\$120</b> per hour*
Additional plan review required by changes, additions, or revisions to plans , <b>remove</b> minimum charge = 1/2 hour)	\$47 <b>\$120</b> per hour*
For use of outside consultants for plan checking and inspections or both	Actual costs**
*Or the total hourly cost to the town, whichever is greater. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.	
**Actual costs include <b>consultant, town</b> administrative and overhead costs <b>at a rate of \$100 per hour with a minimum charge of one hour or normal plan review fees, whichever is greater.</b>	

(1989 Code, § 7-1-1) (Ord. 2001-01, passed 1-25-2001; Ord. 2006-01, passed 3-9-2006; Ord. 2012-02, passed 7-27-2012)

#### 150.15 ELECTRICAL CODE.

Adopts the 2012 National Electrical Code.

#### 150.16 MECHANICAL CODE

Adopts the 2012 Mechanical Code

## 150.17 PLUMBING CODE

Adopts the 2012 Plumbing Code

## 150.18 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

Adopts the 1991 (most current edition) of this code.

## 150.19 BUILDING PERMIT FEESW

**(change section from 19 to) 20 BUILDING PERMIT AND FEES.**

Prior to constructing any improvement which is either new construction or which involves more than 25% of any existing structure, a building permit must be obtained from the (remove Town Manager and insert) Building Inspector. The (remove Town Manager and insert) Building Inspector shall review all plans for any improvement prior to issuing a building permit and shall collect a fee for such permit. The building permit fee shall be computed according to a schedule to be adopted from time to time by the Council.

(1989 Code, § 7-6)

**§ 152.09 FEES. SUBDIVISION REGULATIONS**

(A) *Preliminary plat.* At the time of filing a preliminary plat, a subdivider shall pay to the town a (remove basic fee and insert) flat rate of \$(remove 25 plus a fee of \$2 per lot and insert) \$750 plus \$20 per lot.

(B) *Final plat.* At the time of filing a final plat, a subdivider shall pay to the town a (remove basic fee of \$50 plus a fee of \$2 per lot and insert) \$750 plus \$20 per lot.

(1989 Code, § 15-7)

## 154.34 NOTIFICATION OF REQUEST FOR HEARING-ZONING

(3)The notice required to be published and posted shall also be mailed to the last known address of all owners of property within 150 feet of the property proposed to be rezoned or for which a variance is to be considered by said amendment, said owners to be determined by a current list of ownership.

154.036 APPLICATION FEES FOR ZONING: Changes noted in red.

<i>Type of Application</i>	<i>Fee</i>
Appeals of administrative decisions	\$25
Site plan review application	\$50
<i>Amendments to the Zoning Map for:</i>	
Continued items, continued at the request of the applicant after the property has been posted and the public hearing notices are mailed	\$25

Multi-family residential, commercial, and industrial districts	\$400 <del>Remove:</del> \$200 + \$20/acre over one acre to a maximum of \$700
Planned area development	400 <del>Remove:</del> \$200 with 25 units or less \$200 + \$5 per unit over 25 units to a maximum of \$1,000
Single-family residential	\$100
Site plan review application <del>Move up in this section, fee changed</del>	\$50 + \$25/acre for each acre over one
<i>Conditional Use Permits</i>	
Mobile homes	<del>\$50 Remove:</del> \$25
All other	\$50
<i>Variances</i>	
Single-family residential	<del>\$50 Remove</del> \$25
All other	\$50

**§ 154.145 SIGN PERMITS AND FEES.**

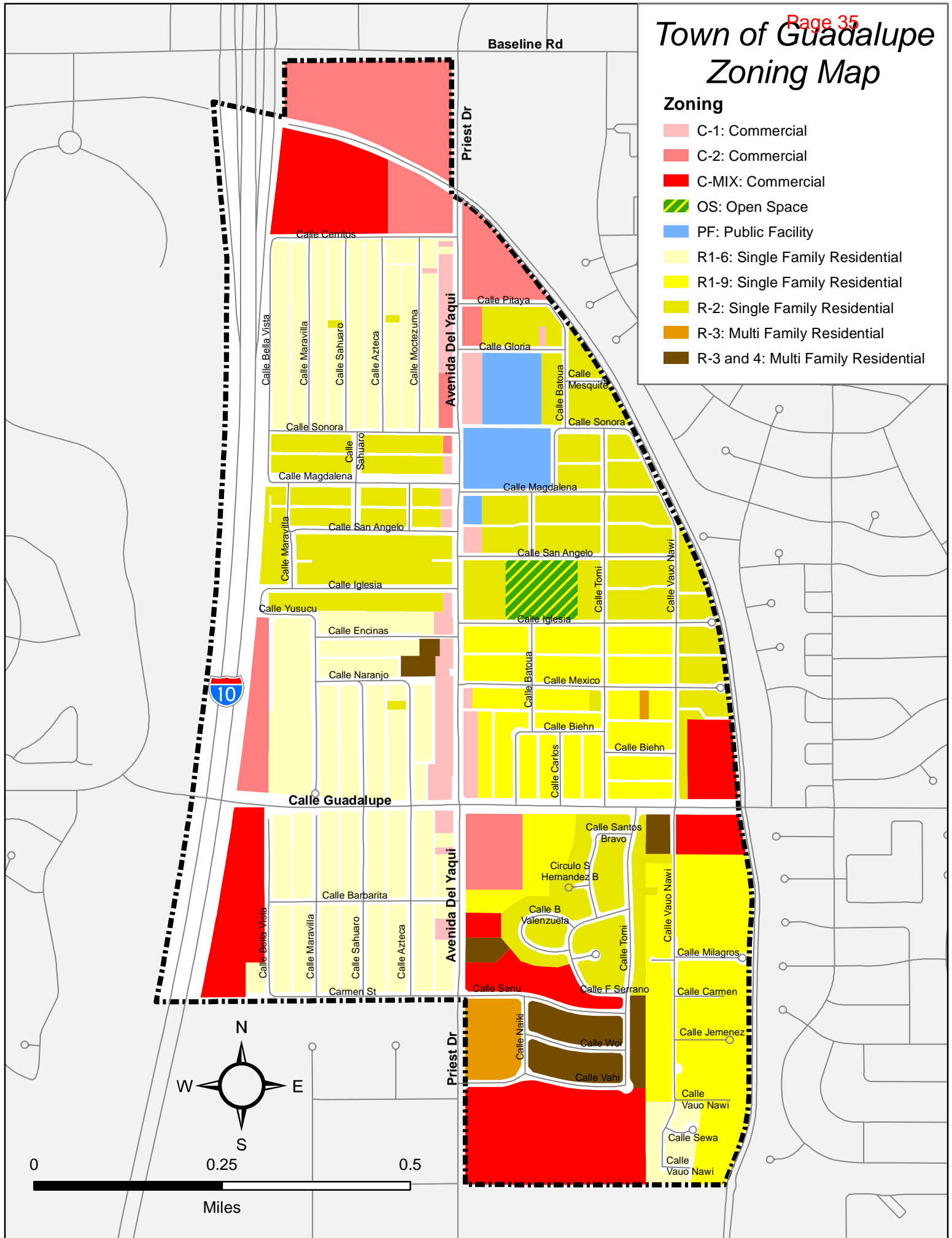
*(A) Fees for signs.*

(1) A sign permit shall be secured prior to the installation of any signs according to the following (except billboard signs which are controlled by §§ 154.147 and 154.148): there shall be a minimum charge of \$100 for up to two signs and \$200 for three or more signs. ~~(Remove \$15 or \$0.50 per square foot of sign area.) This fee is in addition to the fee for a building permit.~~

# Town of Guadalupe Zoning Map

## Zoning

- C-1: Commercial
- C-2: Commercial
- C-MIX: Commercial
- OS: Open Space
- PF: Public Facility
- R1-6: Single Family Residential
- R1-9: Single Family Residential
- R-2: Single Family Residential
- R-3: Multi Family Residential
- R-3 and 4: Multi Family Residential





# **TOWN OF GUADALUPE, ARIZONA**

## **CODE OF ORDINANCES**

Manuscript contains:  
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- 10.09 Code is public record
  
- 10.99 Penalty

**§ 10.01 HOW CODE IS DESIGNATED AND CITED.**

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

(1989 Code, § 1-1)

**§ 10.02 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.

(1989 Code, § 1-2)

**§ 10.03 DEFINITIONS.**

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

**Guadalupe - General Provisions**

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

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

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

**CODE or THIS CODE.** The Code of the Town of Guadalupe, Arizona, unless the context indicates otherwise.

**COUNCIL.** The Common Council of the Town of Guadalupe, Arizona.

**COUNTY.** Maricopa County, Arizona.

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

**DAYTIME.** The period of time between sunrise and sunset.

**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.

**IN THE TOWN OR WITHIN THE TOWN.** 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.

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

**MONTH.** A calendar month.

**NIGHTTIME.** The period of time between sunset and sunrise.

**OATH.** Includes affirmation or declaration.

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

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

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

**PRECEDING, FOLLOWING.** Next before and next after, respectively.

**PROPERTY.** Include real and personal property.

**REAL PROPERTY.** Include lands, tenements, and hereditaments.

**SHALL and MAY.** "Shall" is mandatory and "may" is permissive. **SHALL HAVE BEEN.** Include past and future cases.

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

**STATE.** The State of Arizona.

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

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

**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.

**TOWN.** The Town of Guadalupe, Arizona.

**WEEK.** Consists of seven consecutive days.

**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.

**YEAR.** A calendar year, except where otherwise provided.  
(1989 Code, § 1-3)

**§ 10.04 REFERENCES TO CHAPTERS, SECTIONS, OR DIVISIONS; CONFLICTING PROVISIONS.**

(A) *Additional rules of construction.* In addition to the rules of construction specified in §§ 10.02 and 10.03, the rules set forth in this chapter shall be observed in the construction of this code.

(B) *References to this code.* All references to chapters, sections, or divisions are to the chapters, sections, and divisions of this code unless otherwise specified.

(C) *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.

(D) *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.

(1989 Code, § 1-4)

**§ 10.05 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.

(1989 Code, § 1-5)

**§ 10.06 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.

(1989 Code, § 1-6)

**§ 10.07 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.

(1989 Code, § 1-7)



**§ 10.08 REPEAL OF EXISTING ORDINANCES.**

(A) *Effective date of repeal.* All ordinances of the town except those specially exempted in this section, now in force and effect are hereby repealed effective at \_\_\_\_\_ on \_\_\_\_\_, but all rights, **#18 need time and date** duties, and obligations created by said ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

(B) *Ordinances exempt from repeal.* The adoption and enactment of this code shall not be construed to repeal or in any way to modify or affect:

- (1) Any special ordinance or ordinances regarding franchises, annexations, dedications, or zoning;
  - (2) Any ordinance malting an appropriation;
  - (3) Any ordinance affecting any bond issue or by which any bond issue may have been authorized;
  - (4) The running of the statute of limitations in force at the time this code becomes effective;
  - (5) The continued existence and operation of any department, agency, commission, or office heretofore legally established or held;
  - (6) Any bond of any public officer;
  - (7) Any taxes, fees, assessments, or other charges incurred or imposed;
  - (8) Any ordinances authorizing, ratifying, confirming, approving, or accepting any compact or contract with any other municipality, the state, or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof; or
  - (9) Any ordinance authorizing or setting out rules and regulations for the employment of persons by or through the town.
- (1989 Code, § 1-9)

**§ 10.09 CODE IS PUBLIC RECORD.**

The town code is declared to be public record and the Town Clerk is directed to keep three copies thereof available for inspection at the Town Hall.  
(Ord. 2005-09, passed 9-8-2005; Res. 2005-13, passed - -)

**§ 10.99 PENALTY. #19**

(A) Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a Class 1 Misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed **\$2,500 (changed from \$1,000)** or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described. **#19 b**

(B) Any violation of or failure or refusal to do or perform any act required by Title **VII** of this code constitutes a civil traffic violation unless otherwise provided in that chapter. Civil traffic violations are subject to the provisions of A.R.S. Title 28, Chapter **5 (changed from Chapter 6, Articles 20 and 21,)** and amendments thereto. **#19 a**

(C) Any person who is convicted of a misdemeanor criminal offense in the municipal court and who, as a consequence, is incarcerated in the county jail, may as a part of any sentence imposed by the municipal court be required to reimburse the town for its actual expense incurred to the county by reason of such confinement in an amount to be set from time to time by the Council and tracking the amount paid by the town for jail services for every prisoner day not to exceed the monetary limits established in division (A) above.

(1989 Code, § 1-8) (Ord. 90-04, passed 8-8-1990; Ord. 1991-01, passed 2-14-1991)

**#19 c (We are not including provisions for civil enforcement)**

### TITLE III: ADMINISTRATION

#### Chapter

30. MAYOR AND COUNCIL
31. TOWN OFFICIALS
32. TOWN POLICIES
33. POLICE AND FIRE DEPARTMENTS
34. TOWN MAGISTRATE
35. FINANCES AND TAXATION



## CHAPTER 30: MAYOR AND COUNCIL

### Section

#### *Council*

- 30.001 Elected officers
- 30.002 Corporate powers
- 30.003 Duties of office
- 30.004 Vacancies in Council
- 30.005 Compensation
- 30.006 Oath of office
- 30.007 Bond
- 30.008 Financial disclosure statement

#### *Mayor*

- 30.020 Selection of Mayor
- 30.021 Vice Mayor
- 30.022 Acting Mayor
- 30.023 Powers and duties of the Mayor
- 30.024 Absence of Mayor
- 30.025 Failure to sign documents

#### *Council Election*

- 30.040 Primary election
- 30.041 Non-political ballot
- 30.042 General election nomination
- 30.043 Election to office
- 30.044 Candidate financial disclosure
- 30.045 Election dates

#### *Council Procedure*

- 30.060 Regular meetings
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- 30.062 Meetings to be public
- 30.063 Quorum
- 30.064 Agenda

**Guadalupe - Administration**

- 30.065 Order of business
- 30.066 Committees and commissions
- 30.067 Voting
- 30.068 Suspension of rules

***Ordinances, Resolutions, and Contracts***

- 30.080 Prior approval
- 30.081 Introduction
- 30.082 Requirements for an ordinance
- 30.083 Effective date of ordinances
- 30.084 Signatures required
- 30.085 Publishing required
- 30.086 Posting required

***COUNCIL*****§ 30.001 ELECTED OFFICERS.**

(A) The elected officers of the town shall be six Council members and a Mayor. The Mayor and Council members shall constitute the Council and shall continue in office until assumption of duties of office by his or her duly elected or appointed successors.

(B) Council members shall serve four-year overlapping terms in the manner provided by state statute. The Mayor shall serve a two-year term as set forth in § 30.020.  
(1989 Code, § 2-1-1) (Ord. 2008-05, passed 8-28-2008)

**§ 30.002 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.  
(1989 Code, § 2-1-2)

**§ 30.003 DUTIES OF OFFICE.**

The Mayor and Council members shall assume the duties of office at the regularly scheduled Council meeting next following the date of the general election at which, or effective as of the date of which, the Mayor and Council members respectively were elected.  
(1989 Code, § 2-1-3) (Ord. 2008-05, passed 8-28-2008)

**§ 30.004 VACANCIES IN COUNCIL.**

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

(1989 Code, § 2-1-4)

**§ 30.005 COMPENSATION.**

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

(1989 Code, § 2-1-5)

**§ 30.006 OATH OF OFFICE.**

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

(1989 Code, § 2-1-6)

**§ 30.007 BOND.**

(A) Prior to taking office, every Council member shall execute and file an official bond, enforceable against the principal and his or her sureties, conditioned on the due and faithful performance of his or her official duties, payable to the state and to and for the use and benefit of the town or any person who may be injured or aggrieved by the wrongful act or default of such officer in his or her official capacity.

(B) A person so injured or aggrieved may bring suit on such bond under provisions identical to those contained in A.R.S. § 38-260. Bonds shall be in such sum as shall be provided by resolution, and the premium for such bonds shall be paid by the town.

(1989 Code, § 2-1-7)

**§ 30.008 FINANCIAL DISCLOSURE STATEMENT.**

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

(1989 Code, § 2-1-8)

**MAYOR****§ 30.020 SELECTION OF MAYOR.**

The Mayor shall be chosen by a vote of the people at the general election in accordance with A.R.S. § 9-232.03. The Mayor shall serve a two-year term.  
(1989 Code, § 2-2-1) (Ord. 2008-05, passed 8-28-2008)

**§ 30.021 VICE MAYOR.**

At the same meeting at which the Mayor is selected, the Council shall designate one of its members as Vice Mayor, who shall serve at the pleasure of the Council. The Vice Mayor shall perform the duties of the Mayor during his or her absence or disability.  
(1989 Code, § 2-2-2)

**§ 30.022 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.  
(1989 Code, § 2-2-3)

**§ 30.023 POWERS AND DUTIES OF THE MAYOR.**

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

- (A) Remove He or she) Shall be the chief executive officer of the town.
- (B) Remove He or she) Shall be the Chairperson of the Council and preside over its meetings. Remove He or she) insert the Mayor may make and second motions and shall have a voice and vote in all its proceedings.
- (C) Remove He or she) Shall enforce the provisions of this code.
- (D) Remove He or she) Shall execute and authenticate by (remove his or her) signature such instruments as the Council or any statutes, ordinances, or this code shall require.
- (E) (He or she) Shall make (remove such) recommendations and suggestions to the Council. (Remove as he or she may consider proper.)
- (F) Remove He or she may,) By proclamation, declare a local emergency to exist due to fire, conflagration, flood, earthquake, explosion, war, bombing, or any other natural or human-made calamity or disaster



or in the event of the threat or occurrence of riot, rout or affray, or other acts of civil disobedience which endanger life or property within the town. After declaration of such emergency, the Mayor shall govern by proclamation and impose all necessary regulations to preserve the peace and order of the town, including, but not limited to:

- (1) Imposition of a curfew in all or any portion of the town;
- (2) Ordering the closing of any business;
- (3) Closing to public access any public building, street, or other public place; and/or

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

(G) **(Remove He or she) S**hall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the town.  
(1989 Code, § 2-2-4)

**§ 30.024 ABSENCE OF MAYOR.**

The Mayor shall not absent himself or herself from the town for a greater period than 15 days without the consent of the Council.  
(1989 Code, § 2-2-5)

**§ 30.025 FAILURE TO SIGN DOCUMENTS.**

If the Mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand, or other document or instrument requiring his or her signature for five days consecutively, then a majority of the members of the Council may, at any regular or special meeting, authorize the Vice Mayor or, in his or her absence, an acting Mayor to sign 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.  
(1989 Code, § 2-2-6)

***COUNCIL ELECTION***

**§ 30.040 PRIMARY ELECTION.**

**Add: When determining the primary election results under the nonpartisan election procedure as set forth in the relevant Arizona Revised Statutes, any candidate who shall receive, at the primary election, a majority of all the votes cast shall be declared to be elected to the office for which he or she is a candidate effective as of the date of the**

general election, and no further election shall be held as to said candidate; provided that if more candidates receive a majority than there are offices to be filled, then those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected.  
(1989 Code, § 2-3-1)

#### **§ 30.041 NON-POLITICAL BALLOT.**

Nothing on the ballot in any election shall be indicative of the support of the candidate.  
(1989 Code, § 2-3-2)

#### **§ 30.042 GENERAL ELECTION NOMINATION.**

If at any primary election held as above provided there be any office for which no candidate is elected, then as to such office, said election shall be considered to be a primary election for nomination of candidates for such office, and the second or 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 votes for the respective offices at such first election shall be the only candidates at such second election, provided that if there be any person who, under the provisions of this subchapter, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving an equal number of votes shall likewise become candidates for such office.  
(1989 Code, § 2-3-3)

#### **§ 30.043 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.  
(1989 Code, § 2-3-4)

#### **§ 30.044 CANDIDATE FINANCIAL DISCLOSURE.**

Each candidate for the office of Council member 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.  
(1989 Code, § 2-3-5)

**§ 30.045 ELECTION DATES.**

The primary election shall be held on every even-numbered year on the tenth Tuesday prior to a general election at which candidates for public office are to be elected. The date for the general election shall be on the first Tuesday after the first Monday in November of every even-numbered year (delete: the third Tuesday of March of every odd-numbered year. The date for the general election shall be the third Tuesday of May of every odd-numbered year.) Title 16 Chapter 2 A.R.S. 16-201 & A.R.S. 16-211 (Delete (1989 Code, § 2-3-6))

***COUNCIL PROCEDURE***

**§ 30.060 REGULAR MEETINGS.**

The Council shall hold regular meetings on the second and fourth Thursday of each month at 6:00 (changed from 7:00) except when the day fixed for any regular meeting of the Council falls upon a day designated by law as a legal holiday. If the meeting falls on a legal holiday, it shall be held at the same hour on the next succeeding day not a holiday unless otherwise properly noticed by the town. When a regular meeting falls on that Thursday known as Holy Thursday (Maunday Thursday, Jueves Santos), the regular meeting for that week shall be canceled. All regular meetings of the Council shall be held at the location specified in the notice of the meeting.  
(1989 Code, § 2-4-1) (Ord. 92-01, passed 6-25-1992) Resolution 2017-01

**§ 30.061 SPECIAL MEETINGS.**

The Mayor, or the Council upon written request of three members, may convene the Council at any time after giving at least 24 hours' 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.  
(1989 Code, § 2-4-2)

**§ 30.062 MEETINGS TO BE PUBLIC.**

All proceedings of the Council shall be open to the public, except that upon approval by a majority vote of the Council, the Council may meet in a closed executive session pursuant to the provisions of state law. Notice of meetings shall be given in a manner consistent with state statutes.  
(1989 Code, § 2-4-3)

**§ 30.063 QUORUM.**

(Remove A majority of the Council shall constitute a quorum for transacting business, but a lesser number may adjourn from time to time and compel the attendance of absent members and insert:) The common council shall, by ordinance, fix the time and place of holding stated meetings, and the council may be convened at any time by the mayor. A majority of the councilmen shall constitute a quorum for transacting business but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalty as the council may, by ordinance, have previously prescribed. No such adjournment shall be a day beyond the next stated meeting of the council. (1989 Code, § 2-4-4), (insert cite:) A.R.S. §9-233

**§ 30.064 AGENDA.**

Prior to each Council meeting, on or before a time fixed by the Council for preparation and distribution of an agenda, whichever is earlier, the Clerk shall collect all written reports, communications, ordinances, resolutions, contracts, and other documents to be submitted to the Council and prepare a draft copy of an agenda according to the order of business and furnish said draft copy to the Mayor, the Manager, and the Attorney for review. Upon the approval of the Mayor, after receiving comments from the Manager and the Attorney, a final version of the agenda shall be provided to the Mayor, each Council member, the Manager, and the Attorney along with any material pertinent thereto. In the event that the Mayor has deleted any proposed agenda item or refused to place an item on the agenda, said item will be placed on the next regular meeting agenda providing that not less than three Council members request in writing that such item be placed on said future agenda. Unless the Mayor consents to a shorter period, said written request must be made no later than two weeks prior to the next regular meeting wherein such agenda item would be considered.

(1989 Code, § 2-4-5) (Ord. 2000-02, passed 6-8-2000)

**§ 30.065 ORDER OF BUSINESS.**

(A) The business of the Council shall be taken up for consideration and disposition in the following order:

- (1) Call to order; (changed as follows:)
- (2) Roll call;
- (3) Invocation/Pledge of Allegiance;
- (4) Approval of minutes;
- ( 5 ) Call to the public;
- (6) Discussion and possible action items;
- (7) Town Manager's report;
- (8) Comments from the Council; and
- (9) Adjournment.

(B) The Mayor, or in his or her absence, the Vice Mayor or other Chairperson at the Council meeting shall have the power to deviate from the order of business set forth above by taking listed items out of order when the need arises. In addition, on those occasions where large numbers of persons wish to address the Council, the Mayor or other Chairperson shall have the right to limit the number of

persons speaking under the call to the public; direct that some of those wishing to speak be moved to the back of the agenda or to another agenda when it appears that the agenda item known as the call to the public will overwhelm the rest of the agenda.

(1989 Code, § 2-4-6) (Ord. 2005-09, passed 9-8-2005)

**§ 30.066 COMMITTEES AND COMMISSIONS.**

The Mayor and Council shall create such committees and commissions, standing or special, as they deem necessary and have the right to appoint members thereto. They shall perform such duties as the Mayor and Council require.

(1989 Code, § 2-4-7) (Ord. 2007-05, passed 10-11-2007)

**§ 30.067 VOTING.**

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

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

(1989 Code, § 2-4-8)

**§ 30.068 SUSPENSION OF RULES.**

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

(1989 Code, § 2-4-9)

***ORDINANCES, RESOLUTIONS, AND CONTRACTS***

**§ 30,080 PRIOR APPROVAL.**

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

(1989 Code, § 2-5-1)

**§ 30.081 INTRODUCTION.**

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

(1989 Code, § 2-5-2)

**§ 30.082 REQUIREMENTS FOR AN ORDINANCE.**

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

(1989 Code, § 2-5-5)

**§ 30.083 EFFECTIVE DATE OF ORDINANCES.**

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

(1989 Code, § 2-5-6)

**§ 30.084 SIGNATURES REQUIRED.**

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

(1989 Code, § 2-5-7)

**§ 30.085 PUBLISHING REQUIRED.**

Only such 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.

(1989 Code, § 2-5-8)

**§ 30.086 POSTING REQUIRED.**

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

(1989 Code, § 2-5-9)





## CHAPTER 31: TOWN OFFICIALS

### Section

#### *General Provisions*

- 31.01 Officers
- 31.02 Additional officers
- 31.03 Bond
- 31.04 Vacancies; holding more than one office
- 31.05 Additional powers and duties

#### *Officers*

- 31.20 Town Manager
- 31.21 Town Clerk
- 31.22 Town Marshal
- 31.23 Town Engineer
- 31.24 Town Attorney
- 31.25 Town Magistrate
- 31.26 Juvenile hearing officers

#### *Office of Zoning Administrator*

- 31.40 Established
- 31.41 Appointment of Administrator
- 31.42 Duties
- 31.43 Fees
- 31.44 Appeals

#### *Departments*

- 31.55 Library Department

#### ***Cross-reference:***

*Town Magistrate, see Ch.34*

*Town policies, see Ch. 32*

*'Zoning, see Ch. 154*

***GENERAL PROVISIONS*****§ 31.01 OFFICERS.**

There are hereby created the offices of Town Manager, Town Clerk, Town Marshal, Town Engineer, Town Attorney, and Town Magistrate who shall be appointed by the Council and who shall serve, with the exception of the Magistrate, at the pleasure of the Council. The Magistrate shall be appointed for a term of office as provided in § 34.02.

(1989 Code, § 3-1-1)

**§ 31.02 ADDITIONAL OFFICERS.**

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

(1989 Code, § 3-1-2)

**§ 31.03 BOND.**

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

(1989 Code, § 3-1-3)

**§ 31.04 VACANCIES; HOLDING MORE THAN ONE OFFICE.**

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

(1989 Code, § 3-1-4)

**§ 31.05 ADDITIONAL POWERS AND DUTIES.**

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

(1989 Code, § 3-1-5)

**OFFICERS****§ 31.20 TOWN MANAGER.**

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

(B) *Bond.* The Town Manager shall furnish a corporate surety bond to be approved by the Council in such sum as may be determined by the Council. The bond shall be conditioned upon the faithful performance of the duties imposed upon the Manager as prescribed in this subchapter. Any premium for such bond shall be a proper charge against the town.

(C) *Compensation.* The Town Manager shall receive such compensation as the Council shall fix from time to time.

(D) *Removal procedure.* The Manager may be removed by a majority vote of the Council. If requested, the Council shall grant him or her a public hearing within 30 days following notice of removal. During the interim the Council may suspend the Manager from duty, but shall continue his or her salary and if the removal becomes final shall pay his or her salary for one month following the removal date. This division (D) shall not apply if the town and the Manager have agreed otherwise in a written contract or a written memorandum of understanding; in such a case, the written agreement shall control.

(E) *Powers and duties.* The Town Manager shall be the administrative head of the government of the town under the direction and control of the Council except as otherwise provided by the Council. He or she shall be responsible to the Council for the proper administration of all affairs of the town. In addition to his or her general powers as administrative head and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in divisions (E)(1) through (E)(12) below:

(1) Appoint and, when necessary for the good of the service, suspend or remove all officers and employees of the town not appointed by the Council. He or she may authorize the head of a department or office to appoint, suspend, or remove subordinates in such department or office;

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

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

(4) (a) Act as the controller and chief financial officer of the town, and keep the Council advised of the financial condition and future needs of the town;

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(b) Direct the **Finance Director (delete Treasurer)** and such other deputies and assistants as he or she shall deem necessary in the preparation of any financial documents related to the town, and in such other duties as he or she shall designate; and

(c) Receive and safely keep all monies that shall come to the town and pay out the same when authorized by the Council. He or she shall keep a separate record and account of each different fund provided by the Council, apportion the monies received among the different funds as prescribed by the Council, and keep a complete set of books showing: every money transaction of the town; the state of each fund; from what source the money in each fund was derived and for what purpose expended; and he or she shall make monthly reports to the Council of all receipts and disbursements and the balance in each fund. At the end of the fiscal year, he or she shall make a full and detailed statement of the receipts and expenditures of the town during the year, specifying the different sources of revenue and the amount received from each, all appropriations made by the Mayor and Council, and the object for which they were made, and the amount of money expended under each, the evidences of indebtedness issued, and what portion remains thereof outstanding, with the rate and amount of interest due thereon, and the amount of cash on hand.

(5) Serve as personnel officer with such duties as directed by the Council, prescribed by this code and as set forth in the personnel rules and regulations. He or she shall recommend to the governing body a standard schedule of pay for each appointive office and position in the town service, including minimum, intermediate, and maximum rates. He or she shall authorize the payment of overtime pay for such employees as may work in excess of a normal work period. Such rates of pay and periods of work shall be in conformity with wages and salaries enacted by the Council;

(6) Recommend to the governing body from time to time adoption of such measures as he or she may deem necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services;

(7) Consolidate or combine offices, positions, departments, or units under his or her jurisdiction, with the approval of the Council. The Manager may be the head of one or more departments;

(8) Attend all meetings of the Council, unless excused therefrom, and take part in the discussion of all matters coming before the Council. He or she shall be entitled to notice of all regular and special meetings of the Council;

(9) In case of accident, disaster, or other circumstances creating a public emergency, the Manager may award contracts and make purchases for the purpose of meeting said emergency, but he or she shall file promptly with the Council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures;

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

(11) Investigate the affairs of the town or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government of the town and in

regard to service maintained by tile public utilities in tile town, and see that all franchises, permits, and privileges granted by the town are faithfully observed; and

(12) Perform such other duties as may be required by the Council, not inconsistent with state law or town ordinances.

(F) *Council not to interfere with appointments or removals.* Willi regard to officers and employees appointed by the Manager, neither tile Council nor any of its members shall direct or request the appointment of any person to, or his or her removal or suspension from, such office by tile Manager or any of his or her subordinates, or in any manner take part in the appointment or removal of such officers and employees in the administrative services of the town. Except for the purpose of inquiry, the Council and its members shall deal with tile administrative service solely through the Manager.  
(1989 Code, § 3-2-1) (Ord. 92-02, passed 7-23-1992; Ord. 2001-02, passed 2-22-2001)

### § 31.21 TOWN CLERK.

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

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

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

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

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

(F) *Duties as ~~Clerk~~ (~~delete~~ Treasurer.)*

~~(Delete sentence~~ The Clerk shall hold tile office of Town Treasurer and shall prepare such financial reports and perform such other duties as may be directed by the Town Manager.)

The Clerk shall also perform the duties of tile town executive secretary as the Town Manager may direct.

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

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

(1) *Administrative duties.* The Clerk shall perform those administrative responsibilities and duties that are conferred upon him or her by the Council in addition to those specified in this code. (1989 Code, § 3-2-2) (Ord. 92-03, passed 7-23-1992)

### § 31.22 TOWN MARSHAL.

The Marshal shall be the Chief of Police and he or she shall perform such duties as may be required of him or her by law and as the Council may deem necessary. **For police protection and public safety services, the Town is authorized to contract with other law enforcement agencies and when this is done by the Town, the person assigned by the contracting agency to interact with the Town shall be deemed the Town Marshall.** (1989 Code, § 3-2-3)

### § 31.23 TOWN ENGINEER.

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

(1989 Code, § 3-2-4)

### § 31.24 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 or her opinion in writing when requested.

(A) He or she shall draft all deeds, contracts, conveyances, ordinances, resolutions, and other legal instruments when required by the Council.

(B) He or she shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the Council.

(C) He or she shall return within ten days all ordinances and resolutions submitted to him or her for consideration by the Council, with his or her approval or disapproval as to form noted thereon, together with his or her reasons therefor.

(D) He or 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.

(1989 Code, § 3-2-5)

**§ 31.25 TOWN MAGISTRATE.**

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

(1989 Code, § 3-2-6)

**§ 31.26 JUVENILE HEARING OFFICERS.**

The appointment by the presiding judge of the juvenile court in the county of all judges of the town court, regular and pro tempore, to serve as juvenile hearing officers, is hereby approved.

(Ord. 94-01, passed 9-22-1994)

***OFFICE OF ZONING ADMINISTRATOR***

**§ 31.40 ESTABLISHED.**

The office of Zoning Administrator of the town is hereby established.

(1989 Code, § 3-6-1)

**§ 31.41 APPOINTMENT OF ADMINISTRATOR.**

(A) The Zoning Administrator shall be appointed by the Council and may be the Town Manager, Town Clerk, or any other individual appointed by the Council, which the Council finds to be qualified to hold said position.

(B) ~~(Remove this paragraph~~The Zoning Administrator shall serve without pay. The Zoning Administrator may be reimbursed for his or her actual expenses incurred in connection with his or her duties upon authorization or ratification and approval of such expenditures by the Council.

(1989 Code, § 3-6-2))

**§ 31.42 DUTIES.**

(A) It shall be the duty of the Zoning Administrator to enforce the zoning ordinances of the town. In this respect, it shall be the duty of the Zoning Administrator to review building permits and business licenses and to interpret the code to make sure the particular business or building is allowed at that particular location. The Zoning Administrator will make interpretations of the code and enforce the code.

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(B) It shall also be the duty of the Zoning Administrator to make recommendations to the Planning and Zoning Commission as to zoning changes that are necessary in the town, and, upon the filing of an application with the Zoning Commission for a change of zoning, the Zoning Administrator shall hold a hearing after giving the same notice that it requires for a regular Planning and Zoning Commission meeting prior to making said recommendations. After holding a public hearing, the Zoning Administrator shall make his or her recommendations, in writing, citing the facts upon which he or she relies in making his or her decisions and shall submit his or her recommendations to the Planning and Zoning Commission prior to the Planning and Zoning Commission holding any hearings which deal with the rezoning of any parcel of property within the town.

(1989 Code, § 3-6-3)

**§ 31.43 FEES.**

The Council shall be authorized to establish a uniform schedule of fees to be charged by the Zoning Administrator for any duties performed by the Administrator, and such fee schedule shall become effective upon approval by the Council,

(1989 Code, § 3-6-4)

**§ 31.44 APPEALS.**

Any decision or recommendation of the Zoning Administrator shall be appealable to the Board of Adjustment as established in the zoning ordinance of the town.

(1989 Code, § 3-6-5)

***DEPARTMENTS*****§ 31.55 LIBRARY DEPARTMENT.**

(A) A town library department is hereby created to provide library services for the town. The Department shall be administratively responsible to the Town Manager, who shall establish administrative procedures and policies governing its operation.

(B) The Council, at its discretion, may appoint a Library Advisory Board to assist in library policy matters.

(1989 Code, § 3-5)



## CHAPTER 32: TOWN POLICIES

### Section

#### *Personnel System*

- 32.01 Creation and scope
- 32.02 Conditions of employment
- 32.03 Rules and regulations
- 32.04 Political contributions
- 32.05 Personnel Board

#### *Purchasing*

- 32.20 In general
- 32.21 Bidding
- 32.22 Determination of lowest responsible bidder
- 32.23 Performance bond
- 32.24 Emergency purchases
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#### *Smoking Regulations*

- 32.40 Purpose
- 32.41 Definitions
- 32.42 Prohibition and regulation of smoking in town-owned facilities
- 32.43 Prohibition of smoking in enclosed public places
- 32.44 Regulation of smoking in places of employment
- 32.45 Where smoking is not regulated
- 32.46 Posting requirements
- 32.47 Regulation of tobacco products in vending machines
- 32.48 Storage and display of tobacco products
  
- 32.99 Penalty

***PERSONNEL SYSTEM*****§ 32.01 CREATION AND SCOPE.**

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

(1989 Code, § 3-3-1)

**§ 32.02 CONDITIONS OF EMPLOYMENT.**

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

(1989 Code, § 3-3-2)

**§ 32.03 RULES AND REGULATIONS.**

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

(1989 Code, § 3-3-3)

**§ 32.04 POLITICAL CONTRIBUTIONS.**

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

(1989 Code, § 3-3-4)

**§ 32.05 PERSONNEL BOARD.**

There is hereby created a Personnel Board of the town, which shall consist of seven members from the citizens of the town appointed by the Mayor and ratified by the Council. The scope of the Personnel Board shall be limited to the conduct of hearings on certain employee grievances and forwarding

advisory recommendations to the Mayor and Council. The members of the Personnel Board shall serve at the pleasure of the Mayor and Council.  
(1989 Code, § 3-3-5)

## ***PURCHASING***

### **§ 32.20 IN GENERAL.**

The Town Manager shall be the purchasing agent for the town. No purchase or contract for services of any kind or description, payment for which is to be made with town funds shall be made by the purchasing agent or any officer, employee, or agent of the town except as set forth in this subchapter and unless said purchase is in accordance with the adopted town budget.

(A) *Under \$3,000.* Whenever any contemplated purchase or contract for services is for the sum of less than \$3,000, the purchasing agent may order the item as needed without further formality.

(B) *\$3,000 to \$4,999 inclusive.* Whenever any contemplated purchase or contract for services is for the sum of at least \$3,000 but not more than \$4,999, the purchasing agent shall solicit at least three bids for item or service. Said solicitation may be orally obtained by him or her, and he or she then award the purchase or contract of service to the lowest responsible bidder.

(C) *\$5,000 to \$9,999 inclusive.* Whenever any contemplated purchase or contract for services is for the sum of more than \$5,000 but less than \$9,999, the purchasing agent shall solicit at least three written bids for the item or service on bid forms and award the purchase or contract of services to the lowest responsible bidder.

(D) *\$9,999 and over.* Whenever any contemplated purchase or contract for service is for the sum of \$9,999 or more, the purchasing agent shall cause to be published in two issues of a newspaper of general circulation in the town, notice inviting bids, which notice shall be published at least ten days prior to the date set for the receipt of the bids. The notice herein shall include a general description of the articles to be purchased or services to be performed and the time and place for opening bids. In addition, the purchasing agent shall post a notice inviting bids in the Town Hall and may also mail to all responsible prospective suppliers a copy of the notice inserted in the newspaper.

(E) *No contract of \$9,999 or more shall be let except by the Council.* Whenever any contemplated purchase or contract for services is for the sum of \$9,999 or more, the purchasing agent (Town Manager) shall present the bids to the Council for approval, and advise the Council of the advantages or disadvantages of contract and bid proposals.

(F) *Professional services.* Bidding and other requirements of this subchapter shall not apply except to comply with any specific applicable federal, state, or contractual procurement regulations and requirements pursuant to divisions (A) through (E) above. This division (F) does not apply to contracts

with persons appointed by the Town Council to act as town officials, including, but not limited to, the Town Clerk, Town Manager, Town Attorney, Town Magistrate, or special consultants who are not "technical registrants" as defined by the Arizona Revised Statutes.

(G) *Exclusive service.* In the event there is only one firm or company or individual capable of providing a particular service or commodity and such services or commodities cannot be secured from other persons or companies, this section shall not be applicable and such services or commodities can be secured without bidding.

(1989 Code, § 3-4-1) (Ord. 2012-03, passed 7-27-2012)

### **§ 32.21 BIDDING.**

The purchasing agent and all parties contracting with the town shall follow the procedure set forth in this section in relation to all bids required under § 32.20(D).

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

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

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

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

(E) The purchasing agent under § 32.20(A) through (C) and the Council under § 32.20(D) shall have the authority to reject any and all bids and parts of all bids and re-advertise or re-solicit bids.

(1989 Code, § 3-4-3)

### **§ 32.22 DETERMINATION OF LOWEST RESPONSIBLE BIDDER.**

Unless the Council or purchasing agent shall exercise the right of rejection as provided by § 32.21, the purchase or contract shall be made from and with the lowest responsible bidder for the entire purchase or contract or for any part thereof. In determining the lowest responsible bidder, the Council and purchasing agent shall consider:

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

(B) Whether the bidder can perform the contract or provide the services promptly or within the specified time, without delay or interference;

(C) The quality of performance of previous contracts;

(D) The previous and existing compliance by the bidder with laws and ordinances of the town;

(E) The financial resources and ability of the bidder to perform the contract; and

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

(1989 Code, § 3-4-4)

**§ 32.23 PERFORMANCE BOND.**

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

(1989 Code, § 3-4-5)

**§ 32.24 EMERGENCY PURCHASES.**

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

(1989 Code, § 3-4-6)

**§ 32.25 FORMS.**

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

(1989 Code, § 3-4-7)

**§ 32.26 PROFESSIONAL SERVICES.**

Unless required by the Council, the bidding and other requirements of this subchapter shall not apply to professional services. Such services shall include, but not be limited to, the following: physicians; attorneys; engineers; and similar professions.

(1989 Code, § 3-4-8)

**§ 32.27 COOPERATIVE PURCHASING.**

This subchapter shall not apply to purchases made by, through or with the state or its political subdivisions. The town may make purchases or award contracts for services without a formal bidding

process whenever other governmental units have done so for the same item or service if, in the opinion of the purchasing agent, a separate bidding process is not likely to result in a lower price for such items or services.

(1989 Code, § 3-4-9)

### ***SMOKING REGULATIONS***

#### **§ 32.40 PURPOSE.**

(A) Since the smoking of tobacco or any plant is a positive danger to the health and a material annoyance, inconvenience, discomfort, and a health hazard to those who are present in confined spaces.

(B) Electronic smoking devices, which first entered the United States market in 2007, are electronic inhalers meant to simulate cigarette smoking. Electronic smoking devices use a heating element that vaporizes a liquid solution. Many electronic smoking devices release nicotine, a highly addictive substance, while some merely release flavored vapor. They are designed to mimic traditional smoking implements in their use and appearance. Although the long-term effects of electronic smoking devices may require further study, the United States Food and Drug Administration has found that some devices contain toxins and carcinogens and has expressed concerns about their safety. Use of electronic smoking devices, particularly in places where smoking is prohibited, may interfere with smokers' attempts to quit by making it easier for them to maintain their nicotine addiction. Children and youth who experiment with electronic smoking devices may become addicted to nicotine and ultimately switch to smoking cigarettes.

(C) Therefore, in order to serve the public health, safety, and welfare, the declared purpose of this subchapter is to restrict smoking within enclosed places, in particular, public places and places of employment.

(Ord. 2002-08, passed 5-9-2002; Ord. 2014-03, passed 8-14-2014)

#### **§ 32.41 DEFINITIONS.**

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

**BAR.** An area devoted primarily to alcoholic beverage service to which food service is only incidental.

**CONTROL DEVICE.** Electronic or mechanical control which causes the contents of a vending machine to be distributed.

**DESIGNATED SMOKING AREA.** Any area outdoors which is outside of any enclosed public place and removed from building entrances and exits. Any **DESIGNATED SMOKING AREAS** must be so situated as to allow non-smoking individuals to conduct normal activity in a smoke-free environment.

**DISTRIBUTION.** To give, sell, deliver, dispense, issue, offer to give, sell, deliver, dispense, or issue, or cause or hire any person to give, sell, deliver, dispense, issue, or offer to give, sell, deliver, dispense, or issue.

**ELECTRONIC SMOKING DEVICE or ELECTRONIC CIGARETTE.** Any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any product name or description.

**EMPLOYEE.** Any person who is employed by any employer for direct or indirect monetary wages or profit.

**EMPLOYEE WORK AREA.** Any areas within a place of employment, which share a common ventilation heating or air conditioning system.

**EMPLOYER.** Any person or entity employing the services of an employee.

**ENCLOSED PUBLIC PLACES.** Any area closed in by a roof and walls with openings for ingress and egress which are available to and customarily used by the public. **ENCLOSED PUBLIC PLACES** governed by this subchapter shall include, but not be limited to, public areas of grocery stores, waiting rooms, public and private schools, doctors' office buildings, community centers, child care centers, public restrooms, all indoor facilities and any public places already regulated by A.R.S. § 36-601.01 and restaurants/cafeterias, bars, sports bars, bowling alleys, and billiard halls. A private residence is not a "public place".

**MINOR.** Any person under the age of 18 years.

**PERSON.** Any natural person, corporation, partnership, firm, organization, or other legal entity.

**PLACE OF EMPLOYMENT.** Any enclosed area under the control of a private or public employer. A private residence is not a **PLACE OF EMPLOYMENT**.

**PUBLIC PLACE.** Any area to which the public is invited or permitted.

**SMOKE OR SMOKING.** Includes the:

(1) Carrying or placing of a lighted cigarette or lighted pipe or any other lighted smoking equipment in one's mouth for the purpose of inhaling and exhaling smoke or blowing smoke rings;

(2) Placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in an ashtray or other receptacle, and allowing smoke to diffuse in the air;

(3) Carrying or placing of a lighted cigarette or lighted pipe or any other lighted smoking equipment in one's hands or any appendage or devices and allowing smoke to diffuse in the air; or

(4) Using an electronic smoking device designed for the purpose of inhaling and exhaling aerosol or vapor.

**TOBACCO PRODUCTS.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or other manner of ingestion, including electronic smoking devices.

**VENDING MACHINE.** Any mechanical, electronic, or other similar device which dispenses tobacco products.

(Ord. 2002-08, passed 5-9-2002; Ord. 2014-03, passed 8-14-2014)

#### **§ 32.42 PROHIBITION AND REGULATION OF SMOKING IN TOWN-OWNED FACILITIES.**

(A) All enclosed public places, places of employment, and employee work areas owned, leased, or operated by the town shall be subject to this subchapter.

(B) Smoking is prohibited in all vehicles and enclosed public places, places of employment, and employee work areas owned, leased, or operated by the town.

(Ord. 2002-08, passed 5-9-2002) Penalty, see § 32.99

#### **§ 32.43 PROHIBITION OF SMOKING IN ENCLOSED PUBLIC PLACES.**

No person shall smoke in any enclosed public place of employment except outdoors in designated smoking areas.

(Ord. 2002-08, passed 5-9-2002) Penalty, see § 32.99

#### **§ 32.44 REGULATION OF SMOKING IN PLACES OF EMPLOYMENT.**

(A) Within 90 days after the effective date of this subchapter, each employer in each place of employment within the town shall adopt, implement, and maintain a smoking policy containing at a minimum the following requirements:

(1) Prohibition of smoking in all employee work areas within the town; and



(2) Prohibition of smoking in employer conference and meeting rooms, classrooms, auditoriums, restrooms, waiting areas, medical facilities, hallways, stairways, and elevators.

(B) The employer shall announce its smoking policy within 90 days after the effective date of this subchapter to all its employees working in work areas within the town.

(C) The provisions of this section shall not apply to those listed in § 32.45.

(D) No employee shall be terminated or subject to disciplinary action solely as a result of his or her complaint about smoking or non-smoking in the workplaces.  
(Ord. 2002-08, passed 5-9-2002)

**§ 32.45 WHERE SMOKING IS NOT REGULATED.**

Notwithstanding any other provision of this subchapter to the contrary, the following areas shall not be subject to the smoking restrictions of this subchapter:

(A) Private residences;

(B) Yaqui or other religious ceremony practiced pursuant to the American Indian Religious Freedom Act of 1978 (42 U.S.C. § 1996, Pub. Law 95-34) as amended;

(C) Hotel and motel rooms rented to guests which are on a separately partitioned ventilation system;

(D) Retail stores that deal exclusively in the sale of tobacco products and smoking paraphernalia, including electronic smoking devices, as long as separately partitioned and on a separate ventilation system;

(E) On-stage smoking as part of a stage production, ballet, or similar exhibition; or

(F) Conference/meeting rooms and private meeting rooms while places are being used exclusively for private functions, as long as separately partitioned and separately ventilated.  
(Ord. 2002-08, passed 5-9-2002; Ord. 2014-03, passed 8-14-2014)

**§ 32.46 POSTING REQUIREMENTS.**

"Smoking" or "No Smoking" signs, or the international "No Smoking" symbol shall be clearly and conspicuously posted by the owner, operator, manager, employer, or other person in control in every place where smoking is controlled by this subchapter.  
(Ord. 2002-08, passed 5-9-2002)

**§ 32.47 REGULATION OF TOBACCO PRODUCTS IN VENDING MACHINES.**

No person shall permit the distribution of tobacco products through the operation of a vending machine in a public display.

(Ord. 2002-08, passed 5-9-2002) Penalty, see§ 32.99

**§ 32.48 STORAGE AND DISPLAY OF TOBACCO PRODUCTS.**

No person who owns, conducts, operates, or maintains a business where tobacco products are sold, nor any person who sells or offers for sale tobacco products, shall store or display, or cause to be stored or displayed, such tobacco products in an area or manner that is accessible to the public without employee assistance.

(Ord. 2002-08, passed 5-9-2002; Ord. 2014-03, passed 8-14-2014) Penalty, see§ 32.99

**§ 32.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Citations may be issued for violation of §§ 32.42, 32.43, 32.44, and 32.46.

(2) Any person violating any of the provisions of §§ 32.42, 32.43, 32.44, and 32.46 shall be liable for the imposition of a civil sanction not to exceed \$25 for the first offense and \$50 for each successive offense. Each day a violation of §§ 32.42, 32.43, 32.44, and 32.46 continues after a citation for the violation has been issued constitutes a separate violation.

(3) The town shall provide for payment by mail of civil fines under §§ 32.40 through 32.48.

(4) Any owner, manager, operator, or employer of any establishment controlled by §§ 32.40 through 32.48 shall, upon either observing or being advised of a violation of § 32.43, have the obligation to inform the violator of the appropriate requirements of this law and then request immediate compliance.

(5) Any person or employer who owns, manages, operates, or otherwise controls the use of any premises subject to §§ 32.40 through 32.48 has the responsibility:

(a) To properly set aside "no smoking" areas;

(b) To properly post signs required hereunder; and

(c) To take the action required by division (B)(4) above when observing or being advised of a violation.

(6) Any employer who knowingly and intentionally violates § 32.44 may be liable for a civil penalty not to exceed \$500. Each day such violation is committed or permitted to continue shall constitute and be punished as a separate offense.

(7) By enforcing §§ 32.40 through 32.48, the town undertakes only to promote the general welfare and health of the community. It does not assume, nor does it impose on its officers and employees, an obligation for breach of which it is liable in money damages to any person claiming injury from such breach.

(8) Each instance of violation of § 32.48 shall constitute a separate civil offense. For the first civil offense at a retail site, the fine is \$100. For the second and third civil offense at a retail site, the fine is \$500. However, if more than three violations occur at a retail site in any consecutive 12-month period, the person or entity operating such retail site shall be subject to a minimum fine of \$500 or a maximum fine of \$2,500.

(Ord. 2002-08, passed 5-9-2002; Ord. 2014-03, passed 8-14-2014)



## CHAPTER 33: POLICE AND FIRE DEPARTMENTS

### Section

#### *Police Department*

- 33.01 Created; composition
- 33.02 Police Commissioner
- 33.03 Appointment of officers
- 33.04 Compensation of officers
- 33.05 Departmental rules and regulations
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#### ***POLICE DEPARTMENT***

##### **§ 33.01 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 police officers as may from time to time be deemed necessary by the Council for the safety and good order of the town.

(1989 Code, § 4-1-1)

**§ 33.02 POLICE COMMISSIONER.**

(A) There shall be, in addition to the Chief of Police, the office of Police Commissioner. The duties of the Police Commissioner are as follows:

- (1) Administrative oversight of the operations of the Police Department;
- (2) Periodic inspection and review of Department records, procedures, and personnel;
- (3) Maintenance of overall efficiency and effectiveness of the operations of the Department;
- (4) Managerial supervision of the Department and the Chief of Police as related to accomplishing, expediting, and enforcing the policies of the Council;
- (5) Compliance enforcement with applicable *state* and federal laws or regulation, governing, guiding, or pertaining to the operations of the Police Department; and
- (6) Appointment of the Chief of Police with the concurrence of the Council.

(B) The powers of the Police Commissioner shall be:

- (1) Full authority to carry out such administrative, personnel, and procedural actions as are necessary to achieve the policy of the Council; and
- (2) Authority to suspend, remove, or discharge the Chief of Police on the basis of just cause, emergency, malfeasance of office, misfeasance of office, or conduct unbecoming an officer.

(C) The Police Commissioner may or may not be a certified law enforcement officer.

(D) In the absence of Council action to the contrary, the Town Manager shall be the Police Commissioner.

(1989 Code, § 4-1-2)

**§ 33.03 APPOINTMENT OF OFFICERS.**

The Chief of Police shall be appointed by the Police Commissioner/Town Manager with the concurrence of the Council. The Police Chief shall appoint police officers as may from time to time be deemed necessary for the safety and good order of the town by the Council.

(1989 Code, § 4-1-3)

**§ 33.04 COMPENSATION OF OFFICERS.**

The Chief of Police and the police officers of the town shall be compensated as determined by the Council. The Chief of Police shall not receive any perquisites, commissions, or compensation for his or her services as Chief of Police, except as the Council may prescribe.

(1989 Code, § 4-1-4)

**§ 33.05 DEPARTMENTAL RULES AND REGULATIONS.**

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Council.

(1989 Code, § 4-1-5)

**§ 33.06 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, ordinances of the town, and the statutes of the state within jurisdictional limits as conferred by law and to arrest and charge the violators thereof;

(B) Take charge of the 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, alleys, parks, or other facilities of the town or on any and all authorized work as may be determined by the Council;

(D) Render such account of the Police Department, its duties and receipts as may be required by the Council, and keep records of the office open to inspection by the Council at any time, except those records as may be exempted by state or federal law;

(E) Enforce the traffic regulations of the town as specified in Title VII of this code and enforce the traffic laws of the state within the limits of the town;

(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 Council of any defects found therein; and

(G) Perform such additional duties as may be required by the Council.

(1989 Code, § 4-1-6)

**§ 33.07 ANSWERING CALLS OUTSIDE THE TOWN.**

The members of the Police Department of the town are duly authorized to answer calls for aid and assistance beyond the corporate limits of the town pursuant to mutual aid agreements and state statutes. (1989 Code, § 4-1-7)

***FIRE DEPARTMENT*****§ 33.20 CREATED; COMPOSITION.**

(A) There is hereby created a Fire Department for the town, which shall consist of a Chief, an Assistant Chief, and as many firefighters as may be deemed necessary from time to time by the Chief and approved by the Town Manager.

(B) In the event that the Fire Chief is absent or that position is open, the Assistant Fire Chief shall serve as the acting Fire Chief reporting directly to the Town Manager. (1989 Code, § 4-2-1) (Ord. 2001-08, passed 10-11-2001)

**§ 33.21 DEPARTMENTAL RULES AND REGULATIONS.**

The Fire Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Chief and the Town Manager and approved by the Council. (1989 Code, § 4-2-2) (Ord. 2001-08, passed 10-11-2001)

**§ 33.22 APPOINTMENT OF CHIEF.**

(A) The Chief of the Fire Department shall be appointed by the Town Manager who shall have the right to demote, dismiss, or discharge the Chief, or if the Chief's position is open, the Assistant Chief subject to the Chief's right to appeal to the Council.

(B) The Assistant Chief has the right to appeal directly to the Council only if he or she is serving as the acting Chief, otherwise the Assistant Chief would file an appeal of any such decision by the Fire Chief with the Town Manager.

(C) Both the Chief and the Assistant Chief positions are "exempt" salaried positions. (1989 Code, § 4-2-3) (Ord. 2001-08, passed 10-11-2001)



**§ 33.23 POWERS AND DUTIES OF CHIEF.**

It shall be the duty of the Chief to:

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

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

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

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

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

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

(G) Keep complete records of all fires, inspections, apparatus and equipment, personnel, and other information about the work of the Department open to Council inspection and submit a complete monthly report of such information to the Town Manager;

(H) Make a complete annual report, in writing, to the Council at such time as may be specified by the Council, and such report shall include the information specified in division (G) above, together with comparative data for previous years and recommendations for improving the effectiveness of the Department;

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

(J) Demote, dismiss, or expel any officer or member of the Department for neglect or refusal to perform departmental duties, subject to the right of any members so demoted, dismissed, or expelled to appeal pursuant to the town's personnel rules and procedures.

(1989 Code, § 4-2-4) (Ord. 2001-08, passed 10-11-2001)

**§ 33.24 APPOINTMENT AND DUTIES OF FIREFIGHTERS.**

Firefighters shall be appointed at such time and in such manner as the Fire Chief may deem necessary, subject to the approval of the Manager. Such appointees shall have telephones in their homes. The firefighters shall be subject to supervision by the Fire Chief or the Assistant Fire Chief.

(1989 Code, § 4-2-5) (Ord. 2001-08, passed 10-11-2001)

**§ 33.25 ENTRY UPON ADJACENT PROPERTY.**

It is lawful for any firefighter 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. No person shall hinder, resist, or obstruct any firefighter in the discharge of his or her duty as provided in this subchapter.

(1989 Code, § 4-2-6) Penalty, see § 10.99

**§ 33.26 EQUIPMENT.**

(A) The Department shall be equipped with such equipment, acquired or leased by the town, as may be required from time to time to maintain its efficiency and properly protect life and property from fire. Recommendations concerning apparatus and equipment needed shall be made by the Chief, and, after approval by the Council, such apparatus and equipment shall be purchased in such manner as may be designated by the Council. All equipment of the Department shall be safely and conveniently housed in such places as may be designated by the Council.

(B) No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully take away or conceal any article used in any way by the Department. No person shall enter any place where the fire apparatus is housed or handle any apparatus or equipment belonging to the Department unless accompanied by, or having special permission of, an officer or authorized member of the Department. No fire apparatus or equipment shall be hired out or permitted to leave the fire station except in response to a call for aid at a fire within the corporate limits of the town or in response to a call for aid at a fire in an area authorized for fire protection service or mutual aid under provisions of § 33.27.

(1989 Code, § 4-2-7) Penalty, see § 10.99

**§ 33.27 PROVIDING FIRE PROTECTION.**

The Council may enter into agreements or contracts to furnish fire protection inside or outside the town or enter into mutual aid agreements, and the Fire Department is authorized to render firefighting service pursuant to the terms of such agreements or contracts.

(1989 Code, § 4-2-8)

**§ 33.28 ACKNOWLEDGMENT OF RIGHT-OF-WAY.**

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 over all other traffic when responding to an alarm. No unauthorized vehicle shall follow within 500 feet of any apparatus belonging to the Department, nor park any vehicle or otherwise cause any obstruction to be placed within 20 feet of the entrance to any fire station or other place where fire apparatus is stored or within 15 feet of any fire hydrant. No person shall drive any vehicle over fire hose except upon specific orders from the Chief or other officer in charge where the hose is used.

(1989 Code, § 4-2-9) Penalty, see § 10.99

**§ 33.29 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.

(1989 Code, § 4-2-10) Penalty, see § 10.99

**§ 33.30 ORDERS OF FIRE CHIEF.**

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

(1989 Code, § 4-2-11) Penalty, see § 10.99

**§ 33.31 ADOPTION OF THE UNIFORM FIRE CODE.**

The Uniform Fire Code, 2012 (changed from 1997) Edition, (UFC 2012) copyrighted by the International Conference of Building Officials and the Western Fire Chief's Association, and the Uniform Fire Standards 2012 (changed from 1997) Edition (UFS 2012) with modifications as adopted by the Arizona State Fire Marshall are hereby adopted as the Uniform Fire Code and the Uniform Fire Standards of the town and are made a part of this subchapter the same as though said Code was specifically set forth in full hereafter, at least three copies of said Codes shall be filed in the office of the Clerk and kept available for public use and inspection.

(1989 Code, § 4-3) (Ord. 2001-01, passed 1-25-2001)



## CHAPTER 34: TOWN MAGISTRATE

### Section

#### *General Provisions*

- 34.01 Magistrate Court established
- 34.02 Town Magistrate
- 34.03 Powers and duties of Town Magistrate
- 34.04 Proceedings of Court
- 34.05 Incompatibility of office
- 34.06 Home detention and electric monitoring

#### *Discipline of Magistrate*

- 34.20 In general
- 34.21 Due process
- 34.22 Amendments
- 34.23 Reports and recommendations
- 34.24 Records
- 34.25 Application of state rules of procedure
- 34.26 Meetings
- 34.27 Rules

#### ***Cross-reference:***

- General offenses, see Ch. 130*
- Penalty, generally, see § 10.99*
- Town officials, see Ch. 31*

### **GENERAL PROVISIONS**

#### **§ 34.01 MAGISTRATE COURT ESTABLISHED.**

There is hereby established in the town a Magistrate's Court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the town is located of violation of laws of the state committed within the limits of the town.

(Ord. 2003-03, passed 2-28-2002)

**§ 34.02 TOWN MAGISTRATE.**

(A) The presiding officer of the Magistrate's Court shall be the Town Magistrate, who shall be appointed by and report to the Town Council. The Town Magistrate shall serve a term of two years for the initial appointment, with the beginning and end of the term to be specified at the time of appointment.

(B) (1) Candidates for Town Magistrate must be at least 30 years old, of good moral character, admitted as a member in good standing with the State Bar of Arizona, a resident of Maricopa County, Arizona for the five years immediately preceding appointment and have been engaged in the active practice of law for not less than six months immediately preceding appointment as the Town Magistrate.

(2) The term active practice of law includes serving as a judge, magistrate, or other judicial officer, or other commensurate experience the Town Council determines to be the equivalent of practicing law, or serving as a judge, magistrate, or other judicial officer.

(C) After an initial two-year term appointment, the Town Council may reappoint the Town Magistrate. All terms for reappointment shall be for a period of two years.

(D) Nothing in this subchapter shall change the town's right, after a due process hearing, to remove the Magistrate for cause.

(Ord. 2003-03, passed 2-28-2002; Ord. 2014-01, passed 1-23-2014)

**§ 34.03 POWERS AND DUTIES OF TOWN MAGISTRATE.**

The powers and duties of the Magistrate shall include:

(A) The powers and duties set forth and conferred upon the Town Magistrate 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) (1) *Fines and deferred prosecution.*

(a) The responsibility for establishing the amounts of all fines, penalties, bails, bonds, or other fees or monies derived therefrom as provided by law and in accordance with the Minimum Accounting Standards for Arizona Courts.

(b) Where the Town Attorney has established a deferred prosecution program for adult and/or juvenile offenders providing that the Town Attorney may defer, prior to a guilty plea or a trial, or any other proceeding in juvenile cases, the prosecution of a person committing a crime and provide in a written deferred prosecution agreement certain terms required to be satisfied by the defendant or

juvenile prior to the dismissal of the action, in such cases the court may require and collect a participation fee in the amount of \$100. Said fee to be paid to the town in accordance with this subchapter and division (D) below.

(2) *Magistrate Court Enhancement Fund.*

(a) There is hereby created a Court Enhancement Fund, which shall be used exclusively to enhance the technological, operational, and security capabilities of the Magistrate Court.

(b) The Court Enhancement Fund shall be funded by an enhancement fee in the amount of \$10, which shall be applied to each charge, offense, or count where the Magistrate Court imposed a fine, sanction, penalty, or assessment. All applicable surcharges shall be applied to the court enhancement fee, and shall be paid over to the State Supreme Court. The enhancement fee shall also apply to fees collected for court authorized diversion programs. **COURT AUTHORIZED DIVERSION PROGRAM**, as used in this section, means a program in which an individual charged with any civil, criminal, or petty offense is not prosecuted for the offense on successful completion of an authorized diversion program and it includes authorized defensive driving courses.

(c) The Court Enhancement Fund shall be established as a designated fund account with the Town Finance Department. The Magistrate Court shall collect enhancement fees and the Town Finance Department shall deposit them in the Court Enhancement Fund in the same manner as other town funds. Interest earned on fund monies shall be credited to, and deposited in, the Enhancement Fund account.

(d) The Magistrate Court shall administer the Fund and may make expenditures from the Fund for the purposes provided in this section. Monies from the Fund shall supplement, not supplant, monies already provided to the Magistrate Court by the town.

(e) The Magistrate Court shall annually submit to the Mayor and Town Council a report detailing the amount of money collected and expended during the reporting period and the progress made in court enhancement.

(3) *Reimbursement for costs.* Any person who has been detained on an arrest warrant or convicted of a misdemeanor criminal offense by the Magistrate Court and sentenced to a term of incarceration in the county jail, or any other detention facility authorized by law, may as a part of any fine imposed by the Magistrate Court, be required to reimburse the town for all or any part of the actual expenses the town has or will incur to the county or other authorized detention authority by reason of the incarceration. Jail costs include, but are not limited to, any or actual costs incurred by the town while the misdemeanant is incarcerated; the amount equals the number of days the misdemeanant is actually incarcerated in the county jail or detention facility multiplied by the prevailing per diem rate charges to the town at the time that the misdemeanant is incarcerated; and/or any and all medical costs and fees incurred.

(4) *Administrative fee for warrants.*

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(a) When a Magistrate of the Municipal Court issues a warrant for failure to pay a fine, restitution, or any other monetary obligation, or for failure to comply with a term or condition of sentence, an administrative fee in the amount of \$50 shall be imposed upon the person for whom the arrest warrant is issued; and this fee shall be added to the amount set forth in the arrest warrant.

(b) The Magistrate may require the warrant fee be paid prior to quashing, removing, or satisfying any warrant issued by the Municipal Court.

(5) *Authority to waive fine or fee.* The Magistrate may waive all or any part of a fine or fee when the payment of all or any part of the fine or fee would cause a hardship to the defendant or a waiver would be in the interest of justice.

(6) *Collection of fees.*

(a) In addition to any other remedies which will be allowed by law, the Town Attorney is authorized to file any appropriate civil suit in any court of appropriate jurisdiction for recovery of the fees referred to herein and/or may cause to be recorded a certified copy of any judgment or restitution order as a lien against the defendant's property.

(b) The town may, if a fine is imposed for the violation of the town code, an ordinance, or a statute of the state within the jurisdiction of the court, have execution against the property of the defendant as in civil actions. Any certified copy of a judgment issued by the Magistrate Court may be recorded within the State of Arizona or any other state of the United States.

(c) A defendant who defaults in his or her obligation for the payment of monies owed or due to the Magistrate Court including, but not limited to, restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs, and fees, is liable for any fees and charges assessed by a collection agency that is licensed pursuant to A.R.S. Title 32, Chapter 9, Article 2, as amended, and that is engaged by the Magistrate Court to collect and enforce such payment. The collection fees and charges assessed by the collection agency shall be added to the sum or sums due from and chargeable against the defendant.

(D) Payment of all fees, fines, penalties, and other monies collected by the court to the Treasurer;

(E) Submitting a monthly report to the Council summarizing court activities for that month;

(F) Preparation of a schedule of civil traffic violations not involving the death of a person, listing specific bond for each violation;

(G) Prepare reasonable personnel rules and regulations for employees of the town court. Said rules must be approved by the presiding judge of the Superior Court in the county and ratified by the Town Council which may not withhold its ratification without due cause. During any period of time where said personnel rules are not in force or where a situation arises that is not covered by these rules, then the **most recent** Judicial Merit System Resolution and Rules adopted by the Superior Court of the county (**delete** on May 6, 1998,) shall apply;



(H) The Magistrate shall be the Personnel Director for the town court and shall be responsible for the hiring, discipline, and termination of all employees of the town court subject to the court's personnel rules; and

(I) Prepare an annual budget proposal for the court and participate in the budget workshops or Council meetings where the court's budget will be discussed.  
(Ord. 2003-03, passed 2-28-2002; Ord. 2005-04, passed 6-9-2005)

**§ 34.04 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 municipal 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 Magistrate 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.

(C) If the Magistrate is satisfied that probable cause exists that the person committed the offense for which he or she is charged, the Magistrate shall issue a summons or a warrant of arrest.  
(Ord. 2003-03, passed 2-28-2002)

**§ 34.05 INCOMPATIBILITY OF OFFICE.**

No Town Manager, Assistant Town Manager, Town Clerk, Town Marshal, Town Engineer, Town Attorney, or anyone whose duties as an employee of the town have a direct relationship with the administration of the town as set out in Chapter 31 of this title shall hold the office of Town Magistrate.  
(Ord. 2003-03, passed 2-28-2002)

**§ 34.06 HOME DETENTION AND ELECTRIC MONITORING.**

(A) To the extent authorized by applicable law, the Town Magistrate or Assistant Town Magistrate (the "Judge") of the Town Magistrate Court (the "Court") may, in the exercise of the Judge's discretion, order home detention, electronic monitoring, and alcohol/drug testing as a term of an adult sentence ordered by the Court, as provided herein.

(1) A defendant may be sentenced to home detention, electronic monitoring, and alcohol/drug testing in any situation where such person is sentenced or ordered confined to any jail in this state, upon such terms and conditions as the Judge may direct.

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(2) A defendant is not eligible for home detention if any of the following apply:

(a) The defendant constitutes a risk to himself, herself, or other members of the community;

(b) The defendant has a past history of violent behavior;

(c) The conviction for which the defendant is being sentenced is a domestic violence offense pursuant to A.R.S. § 13-3601, as amended;

(d) The conviction for which the defendant is being sentenced is an act of prostitution or solicitation pursuant to A.R.S. § 13-3214, as amended; or

(e) The defendant is not eligible pursuant to A.R.S. § 9.499.07 (delete 59-499.07), as amended. #23

(3) If a defendant is sentenced to jail confinement by the Court in any driving under the influence ("DUI") charge (A.R.S. §§ 28-1381 et seq., as amended), the Court may substitute home detention for a portion of the jail term as provided in this section. Any defendant placed in a home detention program as a term of a DUI sentence must serve an initial 24 consecutive hours in jail, except as provided in division (A)(4) below. The defendant shall bear the costs of incarceration and be responsible for payment thereof.

(4) If a defendant is sentenced pursuant to A.R.S. § 28-1381 (K), as amended, or A.R.S. § 28-1382(D) or (E), as amended, the defendant must first serve a minimum of 15 consecutive days in jail before being eligible to be placed in a home detention program. The defendant shall bear the costs of incarceration and be responsible for payment of thereof.

(B) A defendant placed in a home detention program shall be subject to electronic monitoring in the defendant's home and shall be required to remain at home during the hours specified by the Court. A defendant sentenced pursuant to A.R.S. §§ 28-1381 or 28-1382 shall be tested at least once daily for the use of alcohol or drugs in a manner approved by the Court.

(C) If the defendant attends educational classes in the county or is employed within the county, the Court may permit the defendant to attend classes or leave home for employment during specified hours. The Court may permit the defendant to attend religious services or funerals, or to seek medical care or other Court-approved counseling.

(D) The Court may, but is not required to, order that prisoners participate in community restitution work programs. In such a program, the following constitute acceptable community restitution work: municipal and other government public works projects; or other projects sponsored and supervised by public or private community organizations. All such private community organizations must be certified as non-profit entities as defined by Internal Revenue Code § 501(C)(3). The defendant may not be compensated for such work. The Town Council shall act as the town's Community Restitution Committee unless, in its discretion, it chooses to appoint an advisory committee. The presiding Magistrate of the town's Court shall have full discretion to determine which community restitution

programs, if any, shall be approved and which defendants, if any, shall be assigned to community restitution work.

(E) A defendant placed in a home detention program shall bear the expense and be responsible for payment of the full cost of the home detention, including electronic monitoring and alcohol or drug testing costs, to the program provider/administrator. The Court may assess a lesser amount based on the ability of the person to pay pursuant to A.R.S. § 9-499.07(D). Non-payment of any program costs may result in termination of home detention. The Court shall order the defendant to reimburse the town for any home detention costs the town incurs as a result of the defendant being sentenced to home detention.

(F) (1) The Court shall terminate a defendant's participation in a home detention program and require the defendant to complete the remaining term of any sentence by jail confinement if the Court finds the defendant:

(a) Has not successfully completed Court-ordered alcohol or drug screening and treatment pursuant to A.R.S. §§ 28-1381 or 28-1382, or pursuant to any other Court-ordered program; or

(b) Has left the home during home detention without permission of the Judge or supervising authority.

(2) The Court may terminate a defendant's participation in the home detention program and require jail confinement for any other violation of the terms of the home detention order.

(G) As required by A.R.S. § 9-499.07(D), in addition to any other fees or costs, the Court shall order that the defendant pay an electronic monitoring fee of \$30 per month while being electronically monitored. Said fee shall be used by the town to offset the costs of monitoring the program. (Ord. 2010-03, passed 11-10-2010)

### ***DISCIPLINE OF MAGISTRATE***

#### **§ 34.20 IN GENERAL.**

(A) The town recognizes and respects the division of powers between the legislative branch and the judicial branch. It enforces the concept that a judge must remain independent and free to exercise his or her responsibilities pursuant to Administrative Order 83-11, **as revised by Order 1-17-90** State Supreme Court, and the **most recent Arizona Code of Judicial Conduct (delete Ethics) and Arizona Code for Judicial Administration (ACJA)**. For this reason, the Town Council enacts this subchapter to provide appropriate enforcement of the above mentioned standards. **#24**

(B) The discipline mechanism set forth in this subchapter shall be exercised with restraint and caution and only in the event that a judicial officer of this town is accused of violation of said standards.

Discipline shall be applied only upon notice, due process, and a showing of violation of the standards governing the conduct of municipal judges and the statutes and ordinances governing this town. (Ord. 2003-03, passed 2-28-2002)

**§ 34.21 DUE PROCESS.**

(A) Any matter shall be heard either before the Town Council or, upon consent of a majority of the Town Council, by a three-member panel designated by the Town Council, or by a special master, not a member of the Town Council, appointed by the Town Council. The Town Council, panel, or special master shall designate the time and place of the hearing. If there is a panel, members of the panel shall select a president by majority vote. The Magistrate shall be given at least 20 days' notice of time and place of the hearing. Either the Town Clerk or counsel employed by the Town Council, or both, as determined by it, shall present the matter at the hearing. At the hearing, such evidence shall be received and oral evidence will be taken on oath or affirmation. The Town Mayor, special master, or chairperson of the panel, or any member designated by him or her, may issue subpoenas to compel the attendance of witnesses and production of records, documents, or other tangible things designated therein, as may be required. No matter shall proceed under this subchapter without prior direction by the Town Council upon reasonable cause.

(B) The Magistrate shall have the right to defend against the charges, to be represented by counsel, to examine and cross-examine witnesses and to require the issuance of subpoenas for the attendance of witnesses or for the production of any evidentiary matter.

(C) The proceedings at all formal hearings shall be fully recorded manually or by a recording device. When the hearing is before a three-member panel or a special master, the record shall be transcribed upon request and the original and one copy thereof shall be filed with the Town Clerk. Cost of transcribing shall be paid by the requesting party.

(D) (1) Order of hearing shall be:

- (a) First, the party presenting the matter shall produce evidence;
- (b) Second, the Magistrate shall present evidence;
- (c) Third, the party presenting the matter shall offer rebuttal; and
- (d) Fourth, each side shall, if desired, make brief concluding argument.

(2) Burden of proof shall be on the party presenting the matter and shall be proven by a preponderance of the evidence.

(E) Upon showing of an egregious act(s) that the Council finds as constituting immediate threat to public safety or order, the Council may suspend the Magistrate at the time of such finding and request the presiding judge of the Superior Court in the county appoint an interim presiding judge until

conclusion of the matter or until a new Town Magistrate is appointed in accordance with §§ 34.01 through 34.06. Any suspension shall be with pay.  
(Ord. 2003-03, passed 2-28-2002)

**§ 34.22 AMENDMENTS.**

The Town Council, panel, or special master may at any time allow amendments to the notice or answer, but if amendment is allowed, the opposing party shall be allowed time to respond. No amendments shall be allowed after the hearing.  
(Ord. 2003-03, passed 2-28-2002)

**§ 34.23 REPORTS AND RECOMMENDATIONS.**

(A) Any three-member panel or special master conducting a hearing shall, within 20 days after its conclusion, unless additional time is allowed by the Council, make a report to include findings of fact and suggested conclusions of law and recommendations, and transmit such report and the record to the Council which shall file the same in its permanent records. A copy of the report shall be delivered forthwith to the Magistrate.

(B) The Council may thereafter either dismiss the matter, or if it finds good cause it may decide the censure, removal, or retirement of the Magistrate. Final action of the Council shall require a majority vote of its members. The voting members need not personally have participated in or attended earlier relevant proceedings before or taken by the Council as a whole; but nonparticipants in the earlier proceedings shall have access to the record thereof, which record may be transcribed and made available to members upon request.

(C) Each member of the panel, and any special master appointed under these rules, shall have the power to administer oaths for the taking of the testimony. Every witness in every proceeding hereunder shall be sworn upon oath or affirmation to tell the truth and not to disclose the existence of the proceeding, until the proceeding is no longer confidential under the rules.

(D) All notices, papers, and pleadings served upon, delivered, or mailed to a Magistrate pursuant to these rules shall be enclosed in a securely sealed envelope, marked "confidential".  
(Ord. 2003-03, passed 2-28-2002)

**§ 34.24 RECORDS.**

All records of the panel or special master shall be maintained by the Town Clerk. They shall be in such form as shall be determined by the Council with good record keeping practice.  
(Ord. 2003-03, passed 2-28-2002)

**§ 34.25 APPLICATION OF STATE RULES OF PROCEDURE.**

Except as otherwise specifically provided herein, the state's Rules of Civil Procedure insofar as possible shall apply to the formal proceedings hereunder. The state's Rules of Evidence need not be strictly followed. The Board will, however, admit into evidence only these documents or testimony that is material and relevant to the issues at hand. Hearsay may be admitted if the Board determines that it is reliable.

(Ord. 2003-03, passed 2-28-2002)

**§ 34.26 MEETINGS.**

(A) The Town Council may call a meeting and designate when and where the meeting of the panel or special master shall be held. The Town Clerk shall then notify each member by telephone or by other means of the time and place of such meeting.

(B) Panel members may communicate with each other by telephone or other means as to any preliminary matters, but a formal hearing shall be attended by not less than two members of the panel.  
(Ord. 2003-03, passed 2-28-2002)

**§ 34.27 RULES.**

The Town Council, panel, or special master may adopt such other rules not inconsistent with these rules as deemed necessary and expedient in the performance of their duties.  
(Ord. 2003-03, passed 2-28-2002)

Remove the provisions for the Arts Commission and make 35.20 the only section in this chapter

CHAPTER 35: FINANCES AND TAXATION

Section

*Arts Commission; Municipal Art Fund*

- 35.01 Purpose (~~Delete 35.01 thru 35.07 and change 35.20 to~~) 35.01
- 35.02 Definitions
- 35.03 Commission created
- 35.04 Powers and duties of Commission
- 35.05 Fund created
- 35.06 Inclusion in public works projects
- 35.07 Placement of art

*Taxation*

- 35.20 Adoption of Tax Code

**ARTS COMMISSION; MUNICIPAL ART FUND**

**§ 35.01 PURPOSE.**

The town accepts a responsibility for expanding experience with visual art. Such art has enabled people in all societies better to understand their communities and individual lives. Artists capable of creating art for public places must be encouraged. A policy is therefore established to direct the inclusion of works of art in public works of the town.

(1989 Code, § 2-6-1)

**§ 35.02 DEFINITIONS.**

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

**COMMISSION.** The Guadalupe Arts Commission.

**CONSTRUCTION PROJECT.** Any capital project paid for wholly or in part by the town to construct or remodel any building, structure, park, utility, street, sidewalk, or parking facility, or any portion thereof, within the limits of the town.

**ELIGIBLE FUND.** A source fund for construction projects from which art is not precluded as an object of expenditure.

**MUNICIPAL ARTS PLAN.** The plan required by § 35.04.  
(1989 Code, § 2-6-2)

### § 35.03 COMMISSION CREATED.

To carry out the responsibilities set forth in this subchapter, there is hereby created a town Arts Commission to consist of not less than seven members, nor more than 15 members. Members of the Commission shall be appointed by the Mayor, subject to approval of the Council, and shall have been a resident of the town for at least one year immediately preceding his or her appointment and at all times during his or her term of office. When appointing members to the Commission, due regard shall be given to prospective appointees recommended to the Mayor by interested citizens and citizen groups. Terms of membership on the Commission shall be three years except that the terms of the initial appointees shall be staggered so that roughly one-third shall serve for one year, one-third shall serve for two years, and one-third shall serve for three years. The persons appointed to succeed the initial appointees shall be appointed to full three-year terms.

(1989 Code, § 2-6-3)

### § 35.04 POWERS AND DUTIES OF COMMISSION.

The Commission shall:

(A) Annually prepare, adopt, and amend, as necessary, with approval of the Mayor, Council, and appropriate department heads, a municipal art plan, which shall allocate available art funds for artwork projects at specific sites;

(B) Determine a method of selection and commissioning of artists with respect to the design, execution, and placement of works of art for which appropriations have been made and, pursuant to such method, select and commission artists by contract for such purposes;

(C) Determine the specific location and amounts to be expended on works of art in those cases in which the Council has not done so;

(D) Require that any proposed work of art requiring extraordinary operations or maintenance expenses receive prior approval of the department head involved;

(E) Determine the placement of works of art;



(F) Authorize the payments for the design, execution, and placement of works of art from appropriations for works of art in connection with specific construction projects or from appropriations to the Municipal Arts Fund;

(G) Accept and receipt works of art on behalf of the town after approval; and

(H) Promulgate rules and regulations to facilitate the implementation of its responsibilities as prescribed by this subchapter.

(1989 Code, § 2-6-4)

**§ 35.05 FUND CREATED.**

There is established in the town treasury a special fund designated "Municipal Arts Fund" into which funds appropriated as contemplated by this subchapter shall be deposited. Each disbursement from such Fund or from other appropriations for works of art shall be recommended by the Commission and authorized by the Mayor and Council.

(1989 Code, § 2-6-5)

**§ 35.06 INCLUSION IN PUBLIC WORKS PROJECTS.**

All requests for appropriations for construction projects from eligible funds shall include an amount equal to 1 % of the estimated cost of such project for works of art and shall be accompanied by a request from the Arts Commission for authorization to expend such funds after the same have been deposited in the Municipal Arts Fund. When the Council approves any such request, including the 1% for works of art, the appropriation for such construction project shall be made and the same shall include an appropriation of funds for works of art, at the rate of 1 % of project cost to be deposited into the appropriate account of the Municipal Arts Fund. Money collected in the Municipal Arts Fund shall be expended by the Arts Commission for projects as prescribed by the municipal arts plan, and any unexpended funds shall be carried over automatically for a period of three years and, upon request of the Arts Commission, carried over for an additional two years. Any funds carried over for three years, or upon special request for five years, and still unexpended at the expiration of such period shall be transferred to the General Fund provided that, funds derived from revenue or general obligation bond issues or from utility revenues or other special purpose or dedicated funds shall revert to the funds from which appropriated at the expiration of said three- or five-year period.

(1989 Code, § 2-6-6)

**§ 35.07 PLACEMENT OF ART.**

Works of art selected and implemented pursuant to the provisions of this subchapter may be placed in, on, or about any municipal construction project or other municipally-owned, leased, or rented property. They may be attached or detached within or about such property and may be either temporary or permanent. Placement of works of art shall be authorized by the Commission, and the town officers

responsible for the design and construction of such projects shall make appropriate space available for the placement of works of art.

(1989 Code, § 2-6-7)

### ***TAXATION***

#### **§ ~~Change to 35.01 (remove 35.20)~~ ADOPTION OF TAX CODE.**

The Tax Code of the town is hereby adopted by reference and made a part of this code the same as though said code was specifically set forth in full herein. At least three copies of said code shall be kept on file in the office of the Town Clerk.

(1989 Code, § 9-1)

*Cross-reference:*

*Taxation, see TSO Table II*

**TITLE V: PUBLIC WORKS**

Chapter

**50. SEWER**

**51. STORM WATER**



## CHAPTER 50: SEWER

### Section

#### *Sewer Service*

- 50.01 Definitions
- 50.02 Applicability
- 50.03 Application for service
- 50.04 Charges, rates, and payments

#### *Department and Consumer Responsibilities*

- 50.015 Town responsibilities and liabilities
- 50.016 Consumer responsibility
- 50.017 Interference
- 50.018 Private sewage systems
- 50.019 "Unit of service" defined; determination of units
- 50.020 Tampering with equipment prohibited
- 50.021 Permit required
- 50.022 Application for taps
- 50.023 Application
- 50.024 Inspection and approval by town
- 50.025 Records to be kept of building connections

#### *Use of Public Sewers*

- 50.040 Prohibited substances
- 50.041 Septic tank and scavenger waste haulers
- 50.042 Interceptors required
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#### *Administration*

- 50.055 Billing and collection
- 50.056 Termination of service
- 50.057 Annual notification to users

**Guadalupe - Public Works***User Charge System*

- 50.070 Definitions
- 50.071 Enforcement; penalties
- 50.072 Sewer charges
- 50.073 General requirements
- 50.074 Specific requirements
- 50.075 Confidentiality of information
- 50.076 Stricter provisions to prevail
- 50.077 Accidental discharges
- 50.078 Pretreatment requirements

*Sewer Development Fees*

- 50.090 Purpose
- 50.091 Definitions
- 50.092 Fee schedule; collection; exemptions; disposition
  
- 50.999 Penalty

**SEWER SERVICE****§ 50.001 DEFINITIONS.**

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

**BIOCHEMICAL OXYGEN DEMAND (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C expressed in parts per million (p.p.m.) in weight.

**BRANCH SEWER.** A sewer which receives sewage from lateral sewers from a relatively small area.

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

**COMBINED SEWER.** A sewer receiving both surface runoff and sewage.

**DEVELOPER.** Any person engaged in the organizing and financing of a sewage collecting system within an area tributary to a trunk sewer of the town sewer system. Such may be either a subdivider or a legally constituted improvement district.

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

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

**LATERAL SEWER.** A sewer which discharges into a branch or other sewer and has no other common sewer tributary to it.

**MAIN SEWER.** A sewer which receives sewage from one or more branch sewers as tributaries.

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

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

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

**PUBLIC SEWER.** A sewer controlled by public authority.

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

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

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

**SEWAGE WORKS.** All facilities for collecting, pumping, treating, and disposing of sewage.

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

**SEWER CONNECTION FEE.** The initial sewer connection charge as set forth in §§ 50.03 and 50.04, and shall apply to all sewer connections to the public sewer.

**SEWER DEPARTMENT.** Those officers and agents of the town supervising sewer operations for the town.

**STANDARD METHODS or STANDARD LABORATORY PROCEDURE.** The procedure outlined in the latest edition of the book, *Standard Methods for the Examination of Water and Sewage*, published by the American Public Health Association.

**STORM SEWER or STORM DRAIN.** A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

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

**TRUNK SEWER.** A sewer which receives sewage from many tributary main sewers, and serves as an outlet for a large territory.

**WATERCOURSE.** A channel in which a flow of water occurs either continuously or intermittently. (1989 Code, § 14-1) (Ord. 89-07, passed 8-24-1989)

#### **§ 50.002 APPLICABILITY,**

The provisions of this chapter shall be applicable to any building, structure, or property situated within the town, including that which may be owned, leased, controlled, operated, or occupied by the United States, the state, the county, the Tempe School District or by any public or quasi-public agency, corporation, or association, except the town.  
(Ord. 89-07, passed 8-24-1989)

#### **§ 50.003 APPLICATION FOR SERVICE.**

No sewer connection connecting the town sanitary sewer system to any consumer shall be made or used by any person or the town except upon written application furnished to the town by the owner of the premises to which sanitary sewer service is to be furnished or his or her authorized agent. An initial sewer connection fee shall be required in addition to a rental charge for such sanitary sewer connection according to the rates fixed by the town until the service is discontinued by order of the Sewer Department or written order of the owner or his or her authorized agent. The initial sewer connection fee is non-refundable.

(1989 Code, § 14-2-1) (Ord. 89-07, passed 8-24-1989) Penalty, see § 50.999

#### **§ 50.004 CHARGES, RATES, AND PAYMENTS.**

(A) The initial sewer connection fee and minimum charge shall be as determined from time to time by the Council by resolution.

(B) It is hereby determined necessary for the protection of the public health, safety, and welfare to conform with federal, state, and local laws and regulations that a system of charges for sewerage service



be established which allocates the cost of providing sewerage service to each user in such a manner that the allocated costs are proportionate to the cost of providing sewerage service to that user insofar as those costs can reasonably be determined. A sewer use charge is hereby established.

(C) Rates for each fiscal year for the sewer use charge shall be established biennially by resolution of the Council on or before the last day of the previous fiscal year. The rate schedule shall establish separate rates for users in the commercial classification. Rate schedules shall be based upon volume of waste water, discharge, and BOD and SS of the waste water discharge. Rates shall be designed to recover the cost of rendering sewage services for the year during which the rates shall be in effect. Rates shall be established so as to maintain adequate fund reserves, to provide for reasonable expected variations in the cost of providing services, as well as variations in the demand for service. The annual review of rates shall be conducted so as to accomplish the following:

- (1) Maintain the proportionate distribution of operation and maintenance costs among users and user charges;
- (2) Generate sufficient revenue to pay the total costs necessary to the proper operation and maintenance of the sewerage system; and
- (3) Apply excess revenue collected from a class of users to the cost of operation and maintenance of the system attributable to that class for the next year and adjust the rate accordingly.

(D) The Sewer Department shall submit annually to the Council not later than 60 days prior to the end of the fiscal year an annual sewer report, including a recommended rate schedule for each sewer use charge established herein for the following fiscal year. The report shall contain data utilized in determining said rate schedule.

(E) The rate schedules adopted by the Council shall be based upon the following factors:

- (1) The total applicable cost of salaries and benefits of employees engaged in providing sewerage service;
- (2) Applicable operating expenses, including parts, materials, and services incurred in providing sewerage service;
- (3) Applicable equipment replacement costs necessitated by the provision of sewerage services;
- (4) Appropriate indirect costs in rendering sewerage-related services such as purchasing, accounting, billing, and administration;
- (5) Other pertinent factors as determined by the Council; and

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(6) The sewer user charge rate shall be determined according to the following formula:

$$UC = VQ \times VOM + \frac{COM}{CN} \text{---} \text{---}$$

(CN) (12)

- UC = User charge
- VQ = Volume of waste water in millions of gallons per unit per month
- VOM = Unit cost of sewerage service allocable in one million gallons of waste water
- CN = Number of sewer customers
- C<sub>0M</sub> = Cost of sewerage service allocable by customer

(F) For the purposes of determining the sewer use charge, users shall be assigned by the Sewer Department to one of the following classifications: residential or commercial.

(G) A proportionate charge shall be made to all users that discharge waste water, either directly or indirectly, into the town sewerage system. Such charges shall be based on the rate schedules issued pursuant to division (C) above and the cost factors listed in division (E) above.

(H) Any user who fails or refuses to install a water meter to any source of water supply used, within 30 days after written notice by the Director of sewers to do so, shall be charged on water usage estimated by the Sewer Department.

(I) A sewer bill shall be rendered monthly.

(J) There shall be established a Sewerage Operations, Maintenance, and Replacement Fund. All sewer user charge revenues shall be allocated to the Sewerage System Operation, Maintenance, and Replacement Fund, and such Fund shall be utilized.  
(1989 Code, § 14-2-2) (Ord. 89-07, passed 8-24-1989)

***DEPARTMENT AND CONSUMER RESPONSIBILITIES***

**§ 50.015 TOWN RESPONSIBILITIES AND LIABILITIES.**

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

(B) The Sewer Department shall have the right to refuse service, unless the consumer's lines or piping are installed in such manner as to prevent cross-connections or backflow.

(C) Under normal conditions, the consumer shall be notified of any anticipated interruption of service.

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

(E) The Sewer Department may refuse service to any prospective consumer when the capacity of the sewer system will not permit additional loads being placed thereon.  
(1989 Code, § 14-3-1) (Ord. 89-07, passed 8-24-1989)

#### **§ 50.016 CONSUMER RESPONSIBILITY.**

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

(B) The consumer's house or building service line, sewer connection, and apparatus shall be installed and maintained by the consumer, at the consumer's expense, in a safe and efficient manner and in accordance with the town's rules and regulations and in full compliance with the regulations of the State Department of Health Services.

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

(D) In the event that any loss or damage to the property of the town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his or her agents or employees, the cost of necessary repairs or replacements shall be paid by the consumer to the town and any liability otherwise resulting shall be assumed by the consumer. The amount of such loss or damage or the cost of repairs may be added to the consumer's bill, and, if not paid, service may be discontinued after providing notice and an opportunity for a hearing.

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

(1) To prevent fraud or abuse; or

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

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

(1989 Code, § 14-3-2) (Ord. 89-07, passed 8-24-1989)

**§ 50.017 INTERFERENCE.**

It is unlawful for any person:

(A) To interfere in any way with the officers of the Water Department, Sewer Department, or building inspector in the discharge of any of their duties, either in the tapping of any sewer pipe, main, or lateral belonging to the town or in the laying or connecting of such pipe, main, or lateral;

(B) To dig up or cause to be dug up any street or alley in the town for the purpose of connection with the sewer system of the town without first obtaining a permit from the Sewer Department; or

(C) To dig up, after obtaining a permit, any portion of any street or alley of the town for the purpose of connecting with the sewer system and fail or neglect to place the street or alley in its original condition under the supervision of the Sewer Department and as required by the town.

(1989 Code, § 14-3-3) (Ord. 89-07, passed 8-24-1989) Penalty, see § 50.999

**§ 50.018 PRIVATE SEWAGE SYSTEMS.**

(A) *Compliance with subchapter.* Except as provided in this subchapter, it is unlawful to construct where sewer service is available within the town any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except replacement of present system is allowed.

(B) *When permitted; sanitation.* Where a public sanitary or combined sewer is not available within the town or in any area under the jurisdiction of the town, the building sewer shall be connected to a private sewage disposal system, which complies with the regulations of the State Department of Health Services. Such private sewage disposal system shall be constructed, maintained, and operated at all times in a sanitary manner.

(1989 Code, 14-3-4) (Ord. 89-07, passed 8-24-1989) Penalty, see § 50.999

**§ 50.019 "UNIT OF SERVICE" DEFINED; DETERMINATION OF UNITS.**

For the purposes of this subchapter, *UNIT OF SERVICE* shall be each separate occupancy, house, store, or building so situated upon any lot within the town that is served by the town sewer system, or in the opinion of the Town Manager could be served separately from any other occupancy, residence, house, store, or building upon the same lot, irrespective of the number of residences, houses, stores, or buildings upon such lot, even though two or more of such occupancies, residences, houses, stores, or buildings are held or owned by the same person. The determination of the Town Manager as to whether any house, occupancy, residence, store, or building comes within the meaning of this section so as to require a separate sewer connection shall be final; provided, that the owner or occupant of such premises shall have the right to appeal from such decision of the Town Manager to the Town Council at its next regular meeting, and in the event of any such appeal being taken, the determination of the Town Council shall be final.

(Ord. 89-07, passed 8-24-1989)

**§ 50.020 TAMPERING WITH EQUIPMENT PROHIBITED.**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the town sewage system. (1989 Code, § 14-3-5) (Ord. 89-07, passed 8-24-1989) Penalty, see§ 50.999

**§ 50.021 PERMIT REQUIRED.**

(A) No unauthorized person shall uncover, make any connections with, or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Sewer Department.

(B) The sewer service customers shall maintain the building connection or house connection at his or her sole expense.

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

(1989 Code, § 14-3-6) (Ord. 89-07, passed 8-24-1989) Penalty, see§ 50.999

**§ 50.022 APPLICATION FOR TAPS.**

(A) Upon issuance of a required building permit or sewer connection permit to any person, each and every permit issued shall be presented by the person to the Sewer Department.

(B) Before any sewer tap is made, the Sewer Development charge computed in accordance with § 50.092 (and all amendments thereto) of the code shall be paid to the town.

(C) Sewer taps and sewer stubs will be the responsibility of the person requiring such connections. This includes excavation, installation, backfill, and asphalt repair subject to town specifications.

(D) ~~(Delete this paragraph. Connection fee increased to eliminate this fee~~ Any person desiring to make a sewer tap shall notify the Public Works Director at least 24 hours prior to making the tap, and shall pay to the town \$25 for an inspection fee. No sewer tap shall be made unless a town inspector is present at the tap site.)

(E) ~~(Change to section D from E)~~ All sewer taps shall be inspected and approved by the town. (Ord. 89-07, passed 8-24-1989; Ord. 2006-03, passed 3-23-2006)

**§ 50.023 APPLICATION.**

Upon issuance of a required permit to any person, each and every permit issued shall be presented by the person to the Sewer Department and application made for the building connection.  
(1989 Code, § 14-3-7) (Ord. 89-07, passed 8-24-1989)

**§ 50.024 INSPECTION AND APPROVAL BY TOWN.***(A) Inspectors.*

(1) Inspections of every facility that is involved, either directly or indirectly, with the discharge of waste water to the town's sewage system may be made by the Town Manager, or his or her designee, as he or she deems necessary.

(2) These facilities shall include, but not be limited to: sewers; sewage pumping plants; pollution control plants; all industrial processes; industrial waste water generation, conveyance, and pretreatment facilities; devices and connection sewers and all similar sewage facilities. Inspections may be made to determine that such facilities are maintained and operated properly and are adequate to meet the provisions of this chapter.

(3) Access to all of the above facilities or to other facilities directly or indirectly connected to the town's sewage system shall be given to authorized personnel of the town at all reasonable times including those occasioned by emergency conditions. Any permanent or temporary obstruction to easy access to the sewage facility to be inspected shall promptly be removed by the facility user or owner at the written or verbal request of the Town Manager, or his or her designee, and shall not be replaced.

(4) No person shall interfere with, delay, resist, or refuse entrance to an authorized town inspector attempting to inspect any waste water generation, conveyance, or treatment facility connected directly or indirectly to the town's sewage system.

*(B) Construction inspections.*

(1) All sewers to be attached directly or indirectly to a town sewer shall be inspected by personnel of the town during construction. At least 48 hours prior to cutting into the town's sewer, the town shall be notified.

(2) In making a connection to a town sewer, no physical alteration on the town's facilities shall commence until an inspector is present. No waste water shall be discharged into any sewage facility tributary to a town facility prior to obtaining inspections and approval of sewage construction by the town.

(3) Following satisfactory completion of construction, the town will issue a construction inspection certificate upon request.

(1989 Code, § 14-3-8) (Ord. 89-07, passed 8-24-1989)

**§ 50.025 RECORDS TO BE KEPT OF BUILDING CONNECTIONS.**

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

(1989 Code, § 14-3-9) (Ord. 89-07, passed 8-24-1989)

***USE OF PUBLIC SEWERS***

**§ 50.040 PROHIBITED SUBSTANCES.**

(A) *Prohibited substances.* It shall be unlawful for any person to discharge or cause to be discharged to the sanitary sewers:

(1) Any storm water, surface water, ground water, roof runoff, surface drainage, cooling water, or unpolluted process waters that may constitute inflow as defined in this chapter;

(2) Pollutants which create a fire or explosion hazard to the system or treatment plant;

(3) Solid or viscous pollutants in amounts that will cause obstruction to the flow in sewers or other interference or damage with the system or treatment plant;

(4) Any waters or wastes containing toxic, radioactive, poisonous, or other substances in sufficient quantity to injure or interfere with any sewage treatment process, cause corrosive structural damage, constitute a hazard to humans, or create any hazard to the sewerage system or in receiving waters of the sewage treatment plant;

(5) Any waters with a pH of less than 5 or greater than 9.5;

(6) Any waters with a temperature greater than 150°F (66°C); and/or

(7) Any water or waste greater than the following parameters (mg/l) ;

<i>Substance</i>	<i>Milligrams Per Liter</i>
Arsenic	0.1
Barium	10.0
Boron	10.0
Cadmium	0.1

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<i>Substance</i>	<i>Milligrams Per Liter</i>
Chromium VI	0.5
Copper	10.0
Cyanide (includes cyanates)	0.1
Dissolved sulfides	0.5
Lead	0.5
Manganese	0.5
Mercury	0.05
Selenium	0.1
Silver	0.5
<b>Total grease, oil, etc</b>	100.0
Zinc	50.0

**(B) Enforcement.** The Public Works Director shall issue and enforce, through the issuance of industrial waste water permits, other prohibitions and limitations required by state or federal law, or as the Director determines necessary.

**(C) No new connections.** There shall be no new connections from inflow sources as defined in this chapter into the town sewerage system.

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

- (1) Any liquid or vapor having a temperature higher than 150°F;
- (2) Any water or waste which may contain more than 100 parts per million by weight of fat, oil, or grease;
- (3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
- (4) Any garbage that has not been properly shredded;
- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grits such as brick, cement, onyx, carbide, or any other solid or viscous substance capable of causing obstruction to the flow of sewers or other interference with the proper operation of the sewage works;



(6) Any waters or wastes having pH lower than 5 or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

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

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

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

(10) Any water or waste that has in any way been diluted as a substitute for pretreatment for the purpose of obtaining compliance with any categorical standard or pretreatment requirement imposed by this chapter, except where dilution is expressly authorized by an categorical standard;

(11) Any water or waste that could cause a violation of any categorical standard or pretreatment requirement; and/or

(12) Any water or waste that is transported from the point of discharge to the POTW by any septic tank pumper, chemical waste hauler, or similar transporter unless the transporter has first:

(a) Disclosed to the Director the origin, nature, concentration, and volume of all pollutants to be discharged; and

(b) Obtained the consent of the Director to discharge.

(1989 Code, § 14-4-1) (Ord. 89-07, passed 8-24-1989) Penalty, see§ 50.999

#### **§ 50.041 SEPTIC TANK AND SCAVENGER WASTE HAULERS.**

(A) All persons or companies wishing to discharge scavenger wastes into the sewerage system must first obtain a scavenger waste discharge permit from the Public Works Director. Permit applications shall include information on company ownership, identification, and license number of all trucks to be used for delivery of waste to town sewerage facilities. It shall also include truck capacity and other information pertinent to discharge to the sewerage system. Permit applications shall be signed by a responsible owner or manager of the company applying for permission to discharge. All waste-hauling equipment operated by companies with permits shall be registered with the Public Works Department and shall be identifiable by display of an assigned registration number and the truck capacity in gallons.

(1) The permit provided for in this section shall be issued by the Public Works Director to all applicants who comply with the terms and conditions set forth in this section, upon the payment of a permit fee established by resolution of the Town Council.

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- (2) The permit issued as provided for in this section shall expire one year after the date of issue.

(3) Noncompliance with any part of this section or subsequent regulations shall subject the permit holder to revocation of its permit to utilize the services of the town sewerage system for disposal of scavenger wastes. Reissuance of a permit to discharge after revocation shall be at the discretion of the Public Works Director and may be made subject to such conditions as he or she deems appropriate.

(B) The Director may establish such regulations as he or she deems necessary to control the discharge of scavenger wastes to the town sewerage system.

(C) Normal wastes from septic tanks, sewage treatment plants, and the like, may be discharged routinely. Permission to discharge other wastes that are not readily biodegradable or are not known to be compatible to the operation of waste water treatment plants shall be refused. Special request must be made to the Public Works Department prior to discharge of any materials of questionable acceptability. Some specific reasons for refusal of service shall include:

- (1) Material deleterious to treatment plant operations or operators, such as oils, greases, gasoline, toxics, volatile solvents, sand, metallic particles, or paints;

- (2) Materials which cause unusual expense in handling and treatment, unless prior arrangements have been made for the payment of additional cost of service; and

- (3) Materials which would inhibit the performance of the treatment plant, such as acids, plating wastes, or toxic materials.

(D) The discharge of scavenger wastes shall be permitted only at locations and during such hours as shall be established by the Public Works Director. The discharge of scavenger wastes to the sewerage system at any other location is forbidden.

(E) (1) Fees and charges for treatment of normal scavenger wastes shall be based on the costs of providing such services and on the expected overall average characteristics of such discharges, as determined by the Public Works Director.

- (2) The Director also may designate characteristics on which to base charges in special situations, such as discharges from sewage holding tanks, on submission of proof that waste discharges have other-than-expected overall average concentrations and with provisions of positive identification procedures.

- (3) Charges may be billed at monthly intervals or at the discretion of the Director, and shall be considered delinquent if not paid within 30 days of the billing date. Delinquency in payment shall be a basis for revocation of the permit. The fees shall be established by resolution of the Town Council. (Ord. 89-07, passed 8-24-1989)

**§ 50.042 INTERCEPTORS REQUIRED.**

(A) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Public Works Department, they are necessary for the proper handling of liquid wastes, sand, and other excessive amounts or any flammable wastes and other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units.

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

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

(1989 Code, § 14-4-2) (Ord. 89-07, passed 8-24-1989)

**§ 50.043 WASTES SUBJECT TO APPROVAL; PRETREATMENT INTERCEPTORS.**

(A) The admission into the town sewerage system of any waters or wastes having a five-day biochemical oxygen demand greater than 300 parts per million by weight of suspended solids, containing any quantity of substances having the characteristics described above, or having an average daily flow of greater than 25,000 gallons shall be subject to the review and approval of the Public Works Director.

(B) (1) If necessary, the Public Works Director may require an owner to provide, at his or her sole expense, such preliminary treatment of wastes as may be necessary to reduce the BOD to 300 parts per million and the suspended solids to 350 parts per million by weight, reduce the objectionable characteristics or constituents to within the maximum limits provided in this section, or control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the Public Works Director and the Engineering Division of the State Board of Health. No construction of such facilities shall be commenced until approved by the Director in writing.

(2) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her own expense. The owner shall submit compliance reports from a qualified testing laboratory when required by the Director.

(C) If necessary for the proper handling of liquid wastes containing grease or oil in excessive amounts or any flammable wastes, sand, or other harmful ingredients, the Public Works Director may require the owner to provide, at his or her sole expense, grease, oil, and sand interceptors; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious

materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight, and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight.

(Ord. 89-07, passed 8-24-1989)

#### **§ 50.044 PRELIMINARY TREATMENT.**

(A) *Required.* Where necessary in the opinion of the Sewer Department, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to:

(1) Reduce the BOD to 300 parts per million and the suspended solids to 350 parts per million by weight;

(2) Reduce objectionable characteristics or constituents to within the maximum limits provided for in § 50.040; or

(3) Control the quantities and rates of discharge of such waters or wastes.

(B) *Approval.* Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the Sewer Department and the state's Department of Health Services. No construction of such facilities shall be commenced until such approvals are obtained in writing.

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

(D) *Enforcement.* The Sewer Department shall also enforce federal preliminary treatment as set forth by 40 C.F.R. part 403.

(1989 Code, § 14-4-4) (Ord. 89-07, passed 8-24-1989)

### ***ADMINISTRATION***

#### **§ 50.055 BILLING AND COLLECTION.**

For purposes of billing, collection, and enforcement, the Town Manager has the authority to delegate said duties to another agency, city, or municipality.

(1989 Code, § 14-5-1) (Ord. 89-07, passed 8-24-1989)

**§ 50.056 TERMINATION OF SERVICE.**

(A) It is the policy of the town that sewer or water services will not be cut off without allowing the consumer the right to have ten days written notice of such cut-off. If the consumer within ten days requests a hearing, said hearing shall be held by the Town Manager, at which time the consumer has a right to be represented by counsel.

(B) It is the intent of this section that the consumer shall be afforded complete due process before sewer or water services are cut-off

(C) The above stated policy will only be in effect if the Town Manager himself or herself is handling this phase of sewer management. If, pursuant to § 50.055, another town or municipality has been delegated for billing collection and enforcement, then the town incorporates by reference that town or municipality's policy for sewer and water service cut-off.

(1989 Code, § 14-5-2) (Ord. 89-07, passed 8-24-1989)

**§ 50.057 ANNUAL NOTIFICATION TO USERS.**

Each user will be notified at least annually, in conjunction with a regular bill, of the sewer user charge rate and that proportion of the total bill attributable to operation, maintenance, and replacement costs for sewer service.

(1989 Code, § 14-5-3) (Ord. 89-07, passed 8-24-1989)

***USER CHARGE SYSTEM***

**§ 50.070 DEFINITIONS. (#25 a - page #22 has been sent to the codifiers)**

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

***DAILY DETERMINATION OF CONCENTRATION.*** For composite samples, ***DAILY DETERMINATION OF CONCENTRATION*** shall be the same as daily composite sample quality, as that term is defined in this section. For grab samples, the ***DAILY DETERMINATION OF CONCENTRATION*** shall be the arithmetic average (weighted by flow value) of all grab sample qualities as that term is defined in this section, determined for any calendar day.

***DEPARTMENT.*** (***Remove*** The Public Works Department. **and insert new wording:** Those officers, agents or designees of the town manager who supervise public operations and are responsible for the public works of the town.

***Delete DIRECTOR.*** The Public Works Director.

**DISCHARGED.** The disposal of sewage, water, or any liquid from any sewer user into the sewerage system.

**DOMESTIC WASTE.** A typical residential-type waste which requires no pretreatment under the provisions of this chapter before discharging into the sanitary sewer system excluding all commercial, manufacturing, and industrial wastes.

**ESTABLISHMENT OR PLANT.** Any establishment or plant producing liquid waste, with or without suspended solids, required to be discharged into the town sewer system.

**GRAB SAMPLE.** The concentration of some parameter tested in a grab sample, as that term is defined in this section.

**INDUSTRIAL DISCHARGE (WASTE).** Any introduction into the POTW of a nondomestic pollutant which:

- (1) Is produced by a source which would be subject to any categorical standards or pretreatment requirements if such source were to be discharged to the POTW; and
- (2) Contains any substance or pollutant for which a discharge limitation or prohibition has been established by any categorical standard or pretreatment requirement.

**INDUSTRIAL USER PERMIT.** The permit granted by the town which each industrial user must first obtain prior to causing or allowing any industrial discharge to the POTW.

**INDUSTRIAL WASTE.** Includes:

- (1) Any nonresidential user of the sewer system who causes an industrial discharge;
- (2) Any nonresidential user of the sewer system which either discharges or produces a waste which potentially could be discharged to the POTW which would be subject to any categorical standard or pretreatment requirement;
- (3) Has control over the disposal of waste as described in divisions (1) or (2) above; or
- (4) Has the right of possession and control over any property which produces a waste as described in divisions (1), (2), or (3) above.

**INFLOW.** Water other than waste water that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street-wash waters, or drainage.

**INTERFERENCE.** Inhibition or disruption of the sewer system treatment process or operations as the result of the discharge of any pollutant capable of causing or significantly contributing to the:

- (1) Violation of any NPDES permit standard which has been imposed on the town;
- (2) Town's inability to reasonably allow the maximum benefit reuse of POTW residuals; or
- (3) Town's inability to reasonably provide the least expensive method of disposal for POTW residuals.

**MAINTENANCE.** Keeping the treatment works in a state of repair, including expenditures necessary to maintain the capacity (capability) for which the works were designed and constructed.

**NPDES PERMIT.** A National Pollution Discharge Elimination System permit, issued to the town by the EPA which imposes federal standards governing the quality of the treatment effluent discharge from the POTW.

**PERMITTEE OR PERMIT HOWER.** Any person, firm, association, corporation, or trust which owns, operates, processes, or controls an establishment or plant being operated under a valid industrial waste permit to discharge waste into the town sewer system.

**POLLUTANT.** Any dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, cellar dirt, and industrial, municipal, and agricultural wastes.

**POTW.** Publicly owned treatment works and connecting sewer collection system which are owned and/or operated, in whole or in part, by the town and which provide the town with waste water collection and disposal service.

**POTW RESIDUALS.** All POTW effluent and/or solids, including sludge, scum, screenings, and grit, which are the byproduct of waste water treatment operations and which must be discharged to the environment for ultimate disposal and/or reuse.

**PRETREATMENT.** The physical, chemical, biological, or other treatment of any industrial discharge, prior to discharge to the POTW, for the purpose of:

- (1) Reducing the amount of concentration of any pollutant;
- (2) Eliminating the discharge of any pollutant; or
- (3) Altering the nature of any pollutant characteristic to a less harmful state.

**PRETREATMENT REQUIREMENTS.** All of the duties or responsibilities imposed upon the POTW users by this chapter.

**PRODUCER.** Any person, firm, association, corporation, or trust which owns, operates, processes, or controls an establishment or plant, whether or not a permittee.

**REPLACEMENT.** Those expenditures made for obtaining and installing equipment, accessories, and/or appurtenances during the useful life of the treatment works which are necessary to maintain the capacity and performance of the treatment works for which they were designed and constructed.

**SLUG LOAD.** Any pollutant discharged to the POTW in such volume or strength as to cause interference. In particular, any pollutant concentration, quantity, or flow rate which, during any period of 15 minutes or more, is greater than five times the average 24-hour concentration, quantity, or flow rate for such pollutant during normal operation.

**STANDARD INDUSTRIAL CLASSIFICATION.** A coded classification of industries based upon economic activity developed by the U.S. Department of Commerce, as published in the *Standard Industrial Classification Manual, 1987 (change from 1972)*, Office of Management and Budget. #25 b

**STANDARD METHODS.** The procedure as described in the most current edition of *Standard Methods for Examination of Water and Waste Water*, published by the American Health Association, or the most current edition of *Manual of Methods for Chemical Analysis of Water and Wastes*, published by the U.S. Environmental Protection Agency.

**SUSPENDED SOLIDS (SS).** Solids measured in milligrams per liter that either float on the surface of or are in suspension in water, waste water, or other liquids and which are largely removable by a laboratory filtration device, as defined in the standard methods as defined in this section.

**SYSTEM DESIGN CAPACITY.** The design capacity for normal domestic waste water as established by accepted engineering standards.

**TOTAL ORGANIC CARBON (TOC).** The total of all organic compounds expressed in milligrams per liter as determined by the combustion infrared method prescribed by approved laboratory procedures.

**TREATMENT PARAMETER.** A fundamental characteristic of sewage around which treatment is designed, such as, but not limited to, flow, BOD, suspended solids, and phosphorus.

**USER.** Any person, lot, parcel of land, building, premises, municipal corporation, or other political subdivision that discharges, causes, or permits the discharge of waste water into the town sewerage system.

**WASTE WATER.** Any liquid or water-carried pollutant, including any industrial discharge, which is introduced into the POTW from any dwelling, commercial building, industrial facility, or institution. (Ord. 89-07, passed 8-24-1989)

#### § 50.071 ENFORCEMENT; PENALTIES.

(A) Charges levied pursuant to this subchapter shall be collected by the Public Works Department. The Public Works Director shall make and enforce such rules and regulations as may be deemed necessary for the safe, economical, and efficient management and protection of the town's sewerage



system and for the construction and use of the sewers and connections to the sewerage system. Sewer design and construction and infiltration and exfiltration test shall conform to Maricopa Association of Governments specifications, as same may be amended from time to time. The regulation, collection, rebating, and refunding of such sewer charges shall be the responsibility of the Management Services Department. The Public Works Director shall have the authority to deny or condition new sources of sewage or increases from existing sources to the sewerage system.

(B) The Director shall have the authority to regulate the volume and flow rate of discharge to the sewage works, and to establish permissible limits of concentration for various specific substances, materials, waters, or wastes that are prohibited from entering the sewage works.

(C) The admission into the public sewers of any waters or waste having:

- (1) A five-day biochemical oxygen demand greater than 300 milligrams per liter by weight;
- (2) Containing more than 350 milligrams per liter by weight of suspended solids;
- (3) Containing any quantity of substances having the characteristics described in section 50.040 (change from 28-20; #26

or

(4) Having an average daily flow of greater than 25,000 gallons shall be subject to the review and approval of the Director.

(D) The Director shall impose charges on any user of the town's sewage works who discharges wastes having a strength greater than normal sewage or containing nonpermissible quantities or prohibited substances into the public sewer system. The charges so imposed shall be based on the extra costs incurred by the town in surveillance, sampling and testing of the discharges, for additional operating and maintenance expenses, or for any other action required to identify, handle, process, or supplement normal activities due to the unauthorized discharge of excessive strength or unusual character wastes, plus overhead charges. Failure by a user so charged to pay the charges and to provide such corrective measures as may be required to prevent further unauthorized discharges, after due notice by the Director and being given a reasonable time to comply, shall be sufficient cause to discontinue sewer service to the premises.

(E) (1) Inspections of every facility that is involved, either directly or indirectly, with the discharge of waste water to the town's sewage system may be made by the Public Works Director or his or her designate as he or she deems necessary.

(2) These facilities shall include, but not be limited to, sewers; sewage pumping plants; pollution control plants; all industrial processes; industrial waste water generation, conveyance, and pretreatment facilities; devices and connecting sewers; and all similar sewage facilities. Inspections may be made to determine that such facilities are maintained and operated properly and are adequate to meet the provisions of this subchapter.

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(3) Access to all of the above facilities or to other facilities directly or indirectly connected to the town's sewage systems shall be to authorized personnel of the town at all reasonable times, including those occasioned by emergency conditions. Any permanent or temporary obstruction to easy access to the sewage facility to be inspected shall promptly be removed by the facility user or owner at the written or verbal request of the Director or his or her designate, and shall not be replaced.

(4) If consent to inspect has been sought and refused, or if facts or circumstances reasonably justify a failure to seek such consent, the Director shall follow the procedures to obtain a search warrant.

(F) The Director shall issue or amend as applicable industrial user permits within 60 days of receiving the application for such permit or amended permit. Once issued, a permit:

(1) Will be for a period of time not to exceed two years. A permit may be terminated by revocation by the Director or upon voluntary surrender of the permit by the permittee at an earlier date;

(2) Is not transferable by the permittee; and

(3) Will specifically identify all applicable discharge prohibitions and limitations which the Director will enforce.

(G) The Director shall receive and analyze all self-monitoring reports and notices submitted by industrial users.

(H) The Director shall randomly sample and analyze effluent from POTW users and conduct those surveillance and inspection activities needed to identify, independently of any information supplied by users, occasional or continuing noncompliance with any categorical standard or pretreatment required.

(I) The Director shall investigate instances of noncompliance with any categorical standard of pretreatment requirement when notice of any actual or probable noncompliance has been received by the Director or any representative of the Director.

(J) The Director shall notify POTW users of noncompliance with categorical standards or pretreatment requirements discovered by the Director. Such notice shall also contain a demand for any appropriate corrective action, which is necessary to meet the applicable requirements of this subchapter. Any POTW user will be allowed opportunity to respond to an order of the Director before any enforcement action against such user is initiated. Where there is endangerment of the health and welfare of persons, however, the Director may halt or prevent a discharge without providing opportunity to respond to any such order.

(K) The Director shall comply with the public participation requirements of 40 C.F.R. part 105 in connection with the town's enforcement of any categorical standard.

(L) The Director shall impose appropriate penalties for noncompliance with any of the requirements of this subchapter. Such penalties may include any or all of the following:

(1) Suspension or revocation of any industrial user permit for the failure of an industrial user to comply with the pertinent requirements of such permit;

(2) Termination of POTW services;

(3) Restricting or otherwise limiting allowable discharges; and/or

(4) Requesting that the Town Attorney commence criminal and/or civil action against any user violating any requirement of this subchapter.

(M) The Director shall:

(1) Determine which actual or threatened discharge to the POTW will cause interference with the POTW or will present, or may present, an imminent or substantial endangerment to the health or welfare of any person and/or the environment;

(2) Abate any actual or threatened discharge which would violate any categorical standard or pretreatment requirement imposed by this subchapter. In the minimum, the Director will be able to promptly plug or disconnect any sewer service connected to the POTW; and

(3) Correct or mitigate any injury to the environment, the POTW, or to any other property as a result of any discharge in violation of a categorical standard or pretreatment requirement imposed by this subchapter.

(N) The Director shall annually publish, in the largest daily newspaper published in the town, public notice of all industrial users who at least once during the preceding 12-month period were not in substantial compliance with any categorical standard or pretreatment requirement imposed by this subchapter. This same notice shall also summarize all enforcement actions taken by the town during the same 12-month period.

(O) The Director shall provide all POTW users with notice of:

(1) Applicable changes in federal and state law governing the disposal/reuse of pollutants produced by any industrial user, regardless of whether or not such pollutants are disposed of by discharge to the POTW; and

(2) The adoption of, and any substantial amendment of, this subchapter. In addition, the Director shall file with the Town Clerk three copies of all federal statutes and regulations cited by this subchapter in order to allow regulated users adequate opportunity to be informed of the applicable federal requirements incorporated in this subchapter by reference.

(Ord. 89-07, passed 8-24-1989)

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### § 50.072 SEWER CHARGES.

(A) It is hereby determined necessary for the protection of the public health, safety, and welfare and to conform with federal, state, and local laws and regulations that a system of charges for sewer service be established with allocates the cost of providing sewerage service to each user in such a manner that the allocated costs are proportionate to the cost of providing sewerage service to that user insofar as those costs can reasonably be determined. A proportionate charge shall be made to all users that discharge waste water, either directly or indirectly, in the town sewerage system. Such charges shall be based on the rates established pursuant to divisions (D) and (E) below. In addition, each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the sewage treatment works shall pay for such increased costs.

(B) There are hereby established the following sewer charges which shall be in lieu of any other town sanitary sewer service charges:

- (1) Sewer use charge; and
- (2) Sewerage system capacity charge.

(C) For the purpose of determining the sewer use charge, users shall be assigned by the Public Works Department to subcategories of user classifications as required.

(D) (1) A rate schedule for the sewer use charge shall establish separate rates for each subcategory of user classification established by the Public Works Director as required in division (C) above. Rates shall be designed to recover the cost of rendering sewerage services for the year during which the rates shall be in effect. Rates shall be established maintaining adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for service.

(2) The Public Works Director shall submit annually to the Town Council not later than 60 days prior to the end of the fiscal year an annual sewer report, including a reconstituted rate schedule for each category of user classification for the following fiscal year. The report shall contain data utilized in determining the rate schedule. The rate schedule shall be in the form of a resolution adopted by the Town Council. The sewer use charge for each user classification will be determined according to the following rate calculation formula:

$$\text{User charge} = (\text{users contribution, MG} \times \$/\text{MG}) +$$

$$\frac{\text{Users BOD loading} \times \$/\text{lb.}}{1000 \text{ lb.}} + \frac{\text{Users SS loading} \times \$/\text{lb.}}{1000 \text{ lb.}}$$

$$\frac{\text{Fixed O \& M}}{\# \text{ of customers}} + \frac{* \text{Cost of monitoring/testing}}{\# \text{ of industrial/commercial customers}}$$

\*Applies only to industrial/commercial users.

(4) Operating and maintenance costs consist of:

(a) Salaries and benefits of employees engaged in providing sewerage service;

(b) Operating expenses, including parts, materials, and services, incurred in providing sewerage service;

(c) Applicable equipment and/or appurtenances replacement costs necessitated by the provision of sewerage services; and

(d) Appropriate indirect costs of the Public Works Department and other town departments in rendering sewerage-related services such as purchasing, accounting, billing, and administration.

(E) (1) The sewerage system capacity charge is established for the purpose of providing revenue to help finance and to more equitably distribute the cost of the construction of necessary additions to both the sewer system and sewer treatment facilities.

(2) The funds received from the collection of such charges shall be deposited daily by the Finance Director who shall credit them to a special fund from which the Town Council may authorize the payment of the cost and expense of the construction of the sanitary sewerage system, regulator chambers, storm standby tanks, pumping stations and sewage treatment works, and for the payment of the cost and expense of extensions to or the enlargement of same.

(3) The charge so exacted shall be set annually by resolution of the Town Council. Cost factors to be considered in establishing this charge shall include annual department service requirements for the retirement of sanitary sewer bonds and/or long-term construction contracts, annual depreciation costs, and other pertinent factors as determined by the Town Council.

(F) A sewer bill may be rendered on a monthly, quarterly, or annual basis. The bill shall distinguish between the sewer use charge and the sewerage system capacity charge.

(G) Sewer user charge rates shall be reviewed by the Town Council at least biennially. Such reviews shall result in revision of user charges to accomplish the following:

(1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes;

(2) Generate sufficient revenue to pay the total costs necessary to the proper operation and maintenance of the sewage system; and

(3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.

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(H) Each user will be notified at least annually, in conjunction with a regular bill, of the sewer use charge rate and that portion of the total bill attributable to operations, maintenance, and replacement costs for sewer service.

(I) The sewer user charge system as set forth in this subchapter shall take precedence over any terms or conditions of agreements or contracts between the town users which are inconsistent with the requirements of **33 U.S.C. §§1251 et seq (remove Pub. Law 95-217)** and federal regulations issued pursuant thereto.

(J) Each sewer charge rendered under or pursuant to this chapter is hereby made a lien upon the corresponding lot, parcel of land, building, or premises served by a connection to the sanitary sewerage system of the town.

(K) (1) There shall be established the following funds or accounts into which the sewer charges levied in this section shall be distributed:

- (a) Sewerage system operations, maintenance, and replacement;
- (b) Sewerage system debt service; and
- (c) Sewerage system construction and expansion.

(2) The distribution of sewer charges shall be as follows:

(a) Sewer use charge revenues shall be allocated to the sewerage system operation, maintenance, and replacement fund or account; and

(b) Sewerage system capacity charge revenues shall be allocated as follows:

1. The portion of the charge levied to service the debt of sanitary sewer bonds or long-term construction contracts shall be allocated to the sewerage system debt service fund or account; and

2. The remainder of the charge shall be allocated to the sewerage system construction and expansion fund or account.

(3) The utilization of the fund or accounts shall be as follows.

(a) Sewerage System Operations, Maintenance, and Replacement Fund or Account shall be utilized for personal services, operational expenses, and equipment replacement expenses associated with the provision of sewerage system service.

(b) Sewerage System Debt Service Fund or Account shall be utilized in servicing the debt retirement of sanitary sewer bonds or long-term construction contracts.

(c) Sewerage System Construction or Expansion Fund or Account shall be utilized for the construction or expansion costs associated with the sewer system and the sewage treatment facilities.

(L) Determination of waste water quality.

(1) For industrial users with installed water meters, the charges established in this section shall become effective from and after each user's first regular meter reading after the issuance of the industrial waste permit.

(2) Any user who fails or refuses to install a water meter to any source of water supply used, within 30 days after written notice by the Public Works Director to do so, shall be charged on water usage estimated by the Director.

(3) If a user discharges sanitary sewage, industrial wastes, water, or other liquids into the town sewerage system, either directly or indirectly, and it can be shown by such party to the satisfaction of the Director that a portion of the water as measured by the water meter or meters does not and cannot enter the sewerage system, the Director may determine in such manner and by such method as he or she may find practicable the percentage of metered water entering the sewerage system. The quantity of water used to determine the sewer charge shall be that percentage, so determined, of the water measured by the water meter or meters; or the Director may require or permit the installation of acceptable additional water or sewer meters at such party's expense and in such a **manner (remove s to eliminate plural)** as to determine the quantity of water actually entering the sewerage system as so determined. If such additional water or sewer meters are installed, an additional charge shall be made to cover the cost of reading and computing the flow of each such meter and such additional charge shall be added to each sewer charge bill rendered.

(4) After the installation of the measuring equipment is approved by the Public Works Director, it shall be the obligation of such industrial user to conduct a test on such measuring equipment at least once every 12 months to determine its accuracy and the results thereof shall be furnished in writing to the Director. Those users seeking renewal of an industrial waste water discharge permit or an interim industrial waste water discharge permit shall file the results as part of the report required by § 50.074. It shall also be the industrial user's responsibility to notify the Public Works Department within a reasonable time in advance so that the Department may, if it chooses, have a witness present during such test. If upon any such test the percentage of accuracy is found to be within the accuracy tolerance as established by the manufacturer's specifications, such measuring equipment shall be determined to have correctly measured the quantity delivered to the sewer system. If, however, upon any such test the percentage of accuracy is found to be in excess of the accuracy tolerance specified by the manufacturer's specifications, then such measuring equipment shall be immediately adjusted to register correctly the quantity delivered to the sewer system. The billings to such industrial user shall be adjusted for a period extending back to the time when the inaccuracy began, if such time is ascertainable, or for a period extending back one-half of the time elapsed since the date of the last test or the date of the last adjustment, if the time is not ascertainable.

(5) All users for which the water supply is from other suppliers of water shall furnish to the town either a certified meter reading of water delivered to its plant or company or a copy of the billing

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From the water supplier. In this event, the user's charges will be calculated and the same conditions will apply as if the town were supplier of water to the user.

(6) For residential and commercial users with installed water meters, the charges established in this section shall become effective from and after each user's first regular meter reading.

(M) Determination of waste water quality.

(1) Testing by direct sampling, utilizing recognized field techniques, equipment, and procedures, will be used for all industrial users. The BOD (5) test shall be considered the standard test, however, COD or TOC tests may be substituted in cases where it has been determined by the Public Works Director that the BOD (5) test is not representative of actual waste water loading. Waste water characteristics shall be determined by the Public Works Department on the basis of monitored waste water discharged, a certified statement from the user, or on the best available data as to the characteristics of such discharges.

(2) Any change in the ongoing processes employed by a user contributing industrial waste which results in a variation of more than 25% of one or more of the effluent loading concentrations shall be reported to the Public Works Department within 30 days of such change.

(3) If it is determined through testing that a significant variation exists between the user's certified data and the discharge characteristics monitored by the Public Works Department, the town may adjust the sewer use charge based on the monitored data from the original date of certification, unless written communication has occurred notifying the Department of changes in loading and giving specific dates of changes.

(4) Where sampling and gauging of a specific user is not practical for physical, economic, safety, or other reasons, the Public Works Director may designate values for concentrations of the wastes discharged into the sewerage system for all users in the same standard industrial classification or sub classification.

(Ord. 89-07, passed 8-24-1989)

**§ 50.073 GENERAL REQUIREMENTS.**

All industrial users shall:

(A) Comply with the categorical standards, pretreatment requirements, and all other requirements imposed by this subchapter upon POTW users;

(B) Comply with the orders of the Director;

(C) Prior to the discharge of waste water to the **POTW** by any new user thereafter, file a written notice with the Director which identifies the:



- (1) Name and address of the existing or prospective user;
- (2) Business location(s) served or to be served by the POTW;
- (3) Nature, concentration, and amounts of any substance present at, or intended to be present at, such business location(s) which, if discharged to the POTW, could constitute an industrial discharge; and
- (4) Nature and concentration of all pollutants currently discharged to the POTW from such business location(s).

(D) File an annual PPTW user report with the Director by the first of January of each year commencing January 1, 1985. ~~(delete the following:, which provides an update to the information obtained pursuant to subsection ???????, paragraph ???????.)~~ This reporting requirement does not apply to industrial users operating pursuant to an industrial user permit; #28

(E) Carry out and maintain an adequate record of all self-inspection and self-monitoring activities necessary for the user to know at all times whether or not such user is introducing any industrial discharge to the POTW;

(F) Assist the Director to determine the exact nature, concentration, and volume of any pollutant intended for discharge to the POTW. Therefore, upon request, any user or industrial user shall promptly:

- (1) Allow the examination and copying of all relevant records or documents available to the user;
- (2) Allow the inspecting of all business locations served by the POTW, including all pretreatment equipment, methods, and activities utilized by the user at such locations;
- (3) Install and maintain, at the user's expense, convenient and adequate monitoring and/or sampling point(s) needed by the Director for monitoring and/or sampling purposes;
- (4) Allow the taking and removal of samples from any waste water discharged or intended for discharge to the POTW; and
- (5) Provide the Director with any other information, including, but not limited to, chemical analyses of waste water and architectural or engineering design data, drawings, and the like, which are reasonably needed by the Director for the purpose of determining such user's compliance with the requirements of this subchapter.

(G) Not cause an industrial discharge without having first obtained, or applied for, an industrial user permit pursuant to this subchapter;

(H) Comply with the demand of the Director to immediately halt any actual or threatened discharge to the POTW when the Director has given notice that such actual or threatened discharge:

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(1) Presents or may present an imminent or substantial endangerment to the health or welfare of any person or to the environment; or

(2) Will cause interference with POTW operations.

(I) Immediately give notice to the Director of any discharge, including an accidental discharge, which is in violation of any categorical standard, pretreatment requirement, or permit condition imposed by this subchapter. Such notice shall also describe the:

(1) Location of the discharge;

(2) Known or estimated nature, concentration, and volume of the discharged pollutant(s);

(3) Type of assistance desired by the town; and

(4) Corrective action(s) undertaken, being undertaken, and/or to be undertaken by the user. Any user causing such a discharge shall also initiate all appropriate corrective action(s) required by the Director which are needed to:

(a) Prevent injury to human health or safety, or to the environment, the POTW and/or any other property;

(b) Promptly repair all or part of any injury or damage caused by such discharge; and

(c) Ensure that such a discharge does not occur again.

(J) Pay all sewer fees charged by the town for the waste water collection and disposal services provided by the POTW pursuant to the requirements of any town ordinance. Such service fees will apply equally to all POTW users and will be determined by each user's proportionate share of the POTW operating and maintenance costs. In turn, the proportionate share will be based on such factors as the strength, volume, and flow rate of the waste water discharged to the POTW by each user;

(K) Reimburse the town for all extraordinary expenses reasonably incurred by the Department in ensuring such POTW user's compliance with the applicable requirements of this subchapter. An extraordinary expense is any cost not otherwise reimbursed from the normal collection of sewer fees. Therefore, extraordinary expenses include, but are not limited to, the costs in:

(1) Issuing permits;

(2) Conducting inspections, surveillance, and monitoring activities;

(3) Obtaining laboratory analyses of waste samples;

(4) Taking enforcement actions against users not in compliance with the requirements of this subchapter; and

(5) Carrying out any measure needed for the protection of human health or safety, the environment, the POTW, or any other property in order to correct or mitigate any harm caused by the violation of any categorical standard or pretreatment requirement.

(L) Be financially responsible for all injury, damage, and/or loss suffered by any person as a result of any industrial discharge by such user which violates any categorical standard, pretreatment requirement, or permit condition enforced pursuant to this subchapter. In particular, such user shall be liable for the:

(1) Personal injury suffered by any person as a result of such discharge;

(2) Costs reasonably incurred by any person in correcting or otherwise mitigating any adverse environmental impact which resulted from such discharge; and

(3) Economic loss and property damage suffered by any person as a result of such discharge.

(M) Existing industrial users shall certify compliance with this subchapter within 90 days of its effective date, or submit application for a new permit.

(Ord. 89-07, passed 8-24-1989)

#### § 50.074 SPECIFIC REQUIREMENTS.

In addition to all other requirements, each industrial user who discharges an industrial discharge into the sewer system shall also:

(A) Obtain an industrial discharge permit from the Director. ~~(Remove this sentence thus eliminating the cites=~~Any application for a permit or an amended permit shall contain the information specified by 40 C.F.R. § 403.12(b)(1) through 403.12(b)(7) and C.F.R. § 40333.12(c)(1) through 40333.12(c)(3)). Any person intending to commence any new industrial discharge(s), or any additional industrial discharge(s) not already allowed pursuant to an existing permit, shall first obtain a new or an amended industrial discharge permit, as applicable, from the Director prior to initiating such discharge(s); #29

(B) Comply fully with all requirements and conditions of any industrial user permit. Once a permit is issued, no industrial user shall:

(1) Make any new or increased industrial discharge; or

(2) Otherwise make any change in the nature of its industrial discharge(s) if such change will cause any new or increased industrial discharge.

(C) Provide all of the pretreatment necessary to comply with the categorical standards and pretreatment requirements imposed by this subchapter;

(D) Maintain a continuous discharge record which clearly identifies the:

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- (1) Dates and times of all industrial discharge(s); and
- (2) Nature, concentration(s), and volume(s) of all such discharges.

(E) Provide the Director with all the same self-monitoring reports and notices which the industrial user is required to submit to the **POTW** or to any other authority in accordance with the provisions of 40 C.F.R. § 403.12. In particular, the industrial user shall meet the requirements of:

- (1) Notices which must be filed with the Director within 180 days of the adoption of any categorical standard, including a compliance schedule;
- (2) Notices which must be filed with the Director within 90 days of any final compliance date;
- (3) Reports which must be filed with the Director by the industrial user in June and December of each year;
- (4) The immediate notice which must be given to the Director after a slug load release of any industrial discharge; and
- (5) The sampling and analysis of pollutants discharged to the POTW.  
(Ord. 89-07, passed 8-24-1989)

**§ 50.075 CONFIDENTIALITY OF INFORMATION.**

(A) Information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. To claim this trade secret protection, the user must specify at the time of submitting his or her reports or information that part he or she desires to protect.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available upon written request to governmental agencies for uses related to this subchapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit, and/or the pretreatment program; provided, however that such portion of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Waste water constituents and characteristics will not be recognized as confidential information.  
(Ord. 89-07, passed 8-24-1989)

**§ 50.076 STRICTER PROVISIONS TO PREVAIL.**

Upon the effective date of any federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this subchapter, shall immediately supersede these limitations.

(Ord. 89-07, passed 8-24-1989)

**§ 50.077 ACCIDENTAL DISCHARGES.**

(A) Each permittee shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this subchapter.

(B) For countermeasures to be taken by the town to minimize damage to the sanitary sewer system and/or degradation of the receiving waters, a permittee shall notify the town immediately upon accidentally discharging wastes in violation of this subchapter. This notification shall be followed within 15 days of the date of occurrence by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrences. Such notification will not relieve the permittee of liability for any expense, loss, or damage to the sanitary sewer system, or for any fines imposed on the town on account thereof and/or for any enforcement action pursuant to this occurrence.

(C) In order that officers, agents, and employees of permittees will be informed of the town's requirements, permittees shall make available to their employees copies of this subchapter together with such other waste water information and notices which may be furnished by the town from time to time for the purpose of improving and making more effective water pollution control. A notice shall be furnished and permanently posted on the permittee's bulletin board advising officers, agents, and employees whom to call in case of an accidental discharge in excess of the limits authorized by the permit.

(D) Any possible connection or entry point for a hazardous and/or prohibited substance to the permittee's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of such substance in violation of this subchapter.

(Ord. 89-07, passed 8-24-1989)

**§ 50.078 PRETREATMENT REQUIREMENTS.**

(A) (1) Pretreatment will be required in the following instances, and the Public Works Director shall submit to the applicant the pretreatment levels which must be obtained:

(a) If the Director determines upon the initial application for a permit under this subchapter that the proposed industrial waste must be pretreated by the applicant to lower the level of any of the components of the industrial waste before discharge to the town sewer;

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(b) If the town must improve the discharge from its waste water treatment plant to the receiving stream as a result of directives from federal or state regulatory agencies, orders, or judgments from courts of competent jurisdiction, or changes in the discharge permit for the town's waste water treatment plant or plants, then and in that event the Director will require that a permit holder install or enlarge pretreatment facilities to lower the affected component of the permittee's industrial waste discharge;

(c) If any waste water prohibited under the conditions of this subchapter is produced, such producer shall pretreat the waste water to the extent required to comply with the standards established in this subchapter before discharging to any town sewer; or

(d) If the Director determines that a permittee, because of plant expansion and/or changes in plant operations, has increased either the strength or volume of the discharge, the Director may require additional pretreatment to lower the level of the volume and/or any components of the industrial waste before discharge, unless such permittee has previously made industrial cost recovery payments for reservation of additional industrial capacity.

(2) Pretreatment facilities required under the foregoing subsections of this section shall be provided, operated, and maintained at the permit holder's expense.

(B) Any sludge or other material removed from the industrial waste by the pretreatment facility shall be disposed of in accordance with applicable federal, state, and local laws.

(C) (1) Dilution of waste discharged to the town sanitary sewer system is prohibited, whether accomplished by the combination of two or more waste streams by a producer or producers or by the addition of other liquids solely for the purpose of diluting the quality of the waste discharge.

(2) One or more producers may, upon application and approval by the Public Works Director, combine industrial waste streams prior to discharge to the town sanitary sewer system if, and only if, such combination of industrial waste streams produces a combined discharge of better quality than the two industrial waste streams would have been if discharged separately. However, if one or more producers are allowed to mix industrial waste streams to produce a better discharge, the user charge established in this subchapter based on the quality of its industrial waste streams prior to combination shall be paid to the town.

(D) (1) Detailed plans showing any pretreatment facilities shall be submitted to the Director for approval before construction of the facilities. The review of such plans will in no way relieve such permit holders from the responsibility of modifying and operating the facilities to produce an effluent complying with the established conditions of the permit.

(2) Any subsequent, significant changes in the approved facilities or method of operation shall be reported to the Director and the Director of the Department of Public Health, and must be reviewed and approved by the Director as complying with the provisions established in this subchapter.

(E) After the construction plans for such pretreatment plants have been approved and a permit issued, the plans shall be placed on file in permanent, reproducible form with the Director, without cost to the town, before a building permit will be issued.

(F) The town will enforce federal pretreatment regulations as set forth in 40 C.F.R. part 403. (Ord. 89-07, passed 8-24-1989)

### ***SEWER DEVELOPMENT FEES***

#### **§ 50.090 PURPOSE.**

Due to the increasing costs associated with the expansion of the town's sewer system, it is now necessary to implement a method of direct cost recovery from persons, firms, or corporations responsible for new physical development within the town to provide a source of funding for the city's continued capital investment in the system.

(Ord. 89-07, passed 8-24-1989)

#### **§ 50.091 DEFINITIONS.**

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

***COMMERCIAL/INDUSTRIAL USER.*** Any user or establishment not defined as a dwelling unit.

***DETACHED DWELLING UNIT.*** Any dwelling unit located on its own lot and not sharing a common wall with or not having adjoining walls with another dwelling unit.

***DEVELOPER.*** The individual, firm, corporation, partnership, association, syndication, trust, or other legal entity that is responsible for new physical development within the town and creating a demand for town sewer service.

***DEVELOPMENT.*** Any improvement which creates a demand for town sewer service.

***DWELLING UNIT.*** A room or group of rooms within a building containing cooking accommodations. An apartment, mobile home, and recreational vehicle shall be considered a ***DWELUNG UNIT.***

***TOWNHOUSE.*** Any dwelling unit located on its own lot and sharing a common wall with or having adjoining walls with another dwelling unit.

(Ord. 89-07, passed 8-24-1989)

§ 50.092 FEE SCHEDULE; COLLECTION; EXEMPTIONS; DISPOSITION.

(A) The sewer development fee to be charged by the town is established in accordance with the following schedule:

<i>Sewer Development Fee</i>	
<i>User Classification</i>	<i>Fee</i>
Detached unit:	
Detached dwelling unit per unit, including mobile manufactured homes	\$750
Townhouses	\$750
Condominiums, multi-family dwellings, and recreational vehicles per unit	\$750
Commercial/industrial user:	
<b>Water meter size inches</b>	
5/8	\$750
3/4	\$1,090
1	\$1,730
1-1/2	\$3,384
2	\$5,285
3	\$10,435
4	\$17,305
6	\$34,070

(B) (1) The fee imposed by this subchapter shall be collected by the Building Department, who shall be charged with the administration of this subchapter.

(2) The fee for each dwelling unit or, in the case of commercial and industrial construction, the fee for connection shall be collected by the Building Safety Director prior to the issuance of a building permit, and the fee with respect to any mobile home or recreation vehicle space shall be collected prior to the issuance of a construction permit for the development of a mobile home or recreation vehicle park. The Building Safety Director shall not issue a building permit or construction permit until the fees required by this subchapter have been paid.

(C) Any separate water meter installed for irrigation purposes only will not be included in the calculation of the sewer development fee. In addition, no sewer development fee will be collected for the installation of fire lines, provided such line is not served by a water meter.



(D) All revenue received from the sewer development fee shall be deposited in a utility revenue account to be used for capital expansion and enlargement of the town sewer system and/or for the retirement of debt service, both principal and interest, related to sewer system development. (Ord. 89-07, passed 8-24-1989)

### § 50.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 if this code of ordinances.

(B) (1) There shall be a penalty imposed if any user shall:

(a) Exceed quantity discharge limitations as set forth in §§ 50.070 through 50.078 or as made part of an industrial waste water permit;

(b) Permit the discharge of excessive concentrations of substances limited by §§ 50.070 through 50.078 or by any industrial waste water permit issued pursuant to this chapter;

(c) Permit the discharge of any substance prohibited by this §§ 50.070 through 50.078 or by a permit issued pursuant to §§ 50.070 through 50.078;

(d) Fail to pay any applicable sewer charge established by §§ 50.070 through 50.078; or

(e) Knowingly misrepresent or omit any pertinent information from application permits or reports required by §§ 50.070 through 50.078.

(2) Any violation of §§ 50.070 through 50.078 shall constitute a misdemeanor, and shall be punishable as set forth in Class 1 Arizona Revised Statutes.

(3) Fines imposed for violation of §§ 50.070 through 50.078 shall approximate the economic benefit derived by the offender, or the maximum fine permitted by law, whichever is greater.

(4) In addition to the penalties set forth in divisions (B)(2) and (B)(3) above, the Public Works Director may discontinue water, sewer, and/or refuse services to a noncomplying user who has violated any of the provisions of §§ 50.070 through 50.078. Discontinuance of water, sewer, and/or refuse services will not occur until the noncomplying user has been notified that he or she is not in compliance with the terms and provisions of §§ 50.070 through 50.078 and has been given reasonable time in which to come into compliance. The Public Works Director may assess the reasonable cost incurred by the town in disconnecting and/or reconnecting such water, sewer, and/or refuse service.

(Ord. 89-07, passed 8-24-1989)



## CHAPTER: STORMWATER

### Section

- 51.01 Purpose
- 51.02 Definitions
- 51.03 Delegation of authority for administration and enforcement
- 51.04 Prohibition of non-storm water discharge to the public storm drain system; exemptions
- 51.05 Operating facilities or activities
- 51.06 Construction sites
- 51.07 Post-construction
- 51.08 Cleanup and notification requirements
- 51.09 Inspections
- 51.10 Enforcement
  
- 51.99 Penalty

***Cross-reference:***

*Subdivision regulations, see Ch. 152*

*Zoning, see Ch. 154*

### § 51.01 PURPOSE.

This chapter sets forth the requirements for the control of pollutants that are or may be discharged to the public storm drain system. The purpose of this chapter is to enable the town to comply with all applicable state and federal laws related to storm water management, including, but not limited to; the Clean Water Act (33 U.S.C. §§ 1251 et seq.), the national pollutant discharge elimination system regulations (40 C.F.R. part 122), and the Arizona Pollutant Discharge Elimination System (AZPDES) permit (AAC R18-19-A902).

(Ord. 2016-02, passed 9-8-2016)

### § 51.02 DEFINITIONS.

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

***ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ).*** The state agency charged with enforcement of environmental laws and regulations.

**ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM (AZPDES).** Storm water permit means a permit issued by ADEQ which authorizes the discharge of storm water pursuant to AAC R18-9-A902, which incorporates 40 C.F.R. § 122.32.

**BEST MANAGEMENT PRACTICES (BMPs).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. **BMPs** also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from outdoor storage areas.

**CLEAN WATER ACT.** The federal Water Pollution Control Act, as amended (33 (remove22) U.S.C. §§ 1251 et seq.). #33

**DIRECTOR.** The Town Manager or his or her designee.

**DISCHARGE.** Any spilling, leaking, pumping, pouring, emitting, emptying, injecting, placing, releasing, leaching, dumping, or disposing into or on any land in a manner that may cause pollution.

**ENVIRONMENTAL PROTECTION AGENCY (EPA).** The federal agency charged with enforcement of environmental laws and regulations.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER PERMIT.** A permit issued by EPA which authorizes the discharge of storm water pursuant to the Clean Water Act § 402 (33 U.S.C. § 1342).

**NOTICE OF INTENT (NOI).** A form submitted to ADEQ notifying of person's intent to be covered under a separate AZPDES storm water permit, as required by federal and state law.

**PERSON.** Any individual, partnership, co-partnership, firm, company, corporation, limited liability company, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns.

**POLLUTANT.** The same meaning as defined in 40 C.F.R. § 122.2, and includes but is not limited to any solid, liquid, gas, or other substance that can alter the physical or chemical properties of water including, but not limited to, fertilizers, solvents, sludge, petroleum and petroleum products, solid waste, garbage, biological materials, radioactive materials, sand, dirt, animal waste, acids, and bases.

**PREMISES.** Any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

**PUBLIC STORM DRAIN SYSTEM.** All or any part of the publicly-owned and maintained roads, streets, catch basins, curbs, gutters, ditches, human-made channels, storm drains, and dry wells located within public easements, right-of-way, parks, common areas, retention areas, or other publicly-owned or maintained real property designed or used for collecting, holding, or conveying storm water.

**STORM WATER.** Storm water runoff, surface runoff, and drainage.  
(Ord. 2016-02, passed 9-8-2016)

**§ 51.03 DELEGATION OF AUTHORITY FOR ADMINISTRATION AND ENFORCEMENT.**

The Town Manager is delegated the authority to exercise the powers and perform the duties set forth in this chapter and to administer and enforce provisions of this chapter. The Town Manager may designate other employees to exercise such powers and perform such duties as he or she deems appropriate.

(Ord. 2016-02, passed 9-8-2016)

**§ 51.04 PROHIBITION OF NON-STORM WATER DISCHARGE TO THE PUBLIC STORM DRAIN SYSTEM; EXEMPTIONS.**

(A) Unless expressly authorized or exempted by this chapter, no person shall cause or allow the discharge to a public right-of-way or public storm drain system of any substance that is not composed entirely of storm water.

(B) Unless expressly authorized or exempted by this chapter, no person shall use, store, spill, dump, or dispose of materials in a manner that those materials could cause or contribute to the addition of pollutants to storm water.

(C) The following discharges are exempt from the prohibitions set forth in divisions (A) and (B) above.

(1) Discharges authorized by a separate NPDES or AZPDES permit.

(2) The following categories of non-storm water discharges are permissible unless otherwise prohibited under divisions (C)(3), (C)(4), or (C)(5) below:

- (a) Water line flushing;
- (b) Landscaping irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters;
- (e) Uncontaminated ground water infiltration as defined in 40 C.F.R. § 35.2005(20);
- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;

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- (h) Foundation drains;
- (i) Air conditioning condensation;
- G) Irrigation water;
- (k) Springs;
- (l) Water from crawl space pumps;
- (m) Footing drains;
- (n) Lawn watering;
- (o) Individual residential car washing;
- (p) Flows from riparian habitats and wetlands;
- (q) Dechlorinated swimming pool discharges;
- (r) Street wash water;
- (s) Discharges from emergency firefighting activity;
- (t) Dust control watering; or

(u) Any other activity that the Director identifies is not a significant contributor of pollutants during the town's AZPDES storm water permit term. (40 C.F.R. § 122.34(b)(3)(iii)).

(3) No person shall discharge to the public storm drain system any exempted discharge under this subsection if the Director or assigned designee identifies and provides written notice to the person that the discharge has the potential to be a source of pollutants to receiving waters, waterways, or ground water.

(4) No person shall discharge to the public storm drain system that would result in or contribute to a violation of the AZPDES storm water permit issued to the town. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge.

(5) No person shall establish, use, maintain, or continue any connection to the public storm drain system, which has caused or is likely to cause a violation of this section. This prohibition is retroactive and shall apply to any connection that was made in the past, regardless of whether it was made under permit or other authorization, or whether it was permissible under the law or practices applicable or prevailing at the time of the connection.

(Ord. 2016-02, passed 9-8-2016) Penalty, see § 5L99

**§ 51.05 OPERATING FACILITIES OR ACTIVITIES.**

(A) All persons owning or operating premises or engaged in activities who are required by federal or state law to submit to EPA and/or ADEQ a notice of intent (NOI) to comply with an NPDES or AZPDES storm water permit shall provide a copy of such notice to the Director upon request. Facilities required to apply for a storm water permit are identified in 40 C.F.R. § 122.26(b)(14).

(B) All persons engaged in activities which will or may reasonably be expected to result in pollutants entering the public storm drain system shall institute best management practices (BMPs) to minimize such pollutants, shall provide protection from accidental discharge of pollutants to the public storm drain system and comply with the cleanup and notification requirements of this chapter. Such measures shall include the requirements imposed by federal, state, county, or local authorities. BMPs are site-specific and are described in the document "Storm Water Management for Industrial Activities: Developing Pollution Prevention plans and Best Management Practices" (EPA 832-r-92-006) or other guidance documents available from EPA and/or ADEQ.

(C) If a best management practice is required by ADEQ's standards to prevent a pollutant from entering the public storm drain system, the person receiving the notice of such a requirement may petition the Director to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten working days setting forth any reasons and proposed alternatives. The Director will act within 30 days of the petition, but during the time a final decision is made, the applicant shall:

(1) Fully observe the aforementioned BMP; or

(2) Abstain from the pollutant-producing activity in question.

(Ord. 2016-02, passed 9-8-2016)

**§ 51.06 CONSTRUCTION SITES.**

(A) All persons engaged in construction activities who are required by federal or state law to submit to EPA and/or ADEQ a notice of intent to comply with an NPDES or AZPDES storm water permit, shall provide the town with copies of the NOI and the NPDES storm water permit issued by ADEQ as one of the pre-conditions for permitting. Construction activities that will disturb one acre or more of land area or smaller land areas if they are part of a larger common plan of development or sale are required to apply for a storm water permit (40 C.F.R. § 122.26(b)(15)).

(B) (1) Any person performing construction shall not cause or contribute to a violation of the AZPDES storm water permit issued to the town. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge.

(2) Any person performing construction shall undertake best management practices to minimize pollutants (including sediments) from leaving the construction site, shall provide protection from accidental discharge of pollutants to the public storm drain system, and comply with the cleanup and

notification requirements of this chapter. Site operator shall ensure erosion and sediment control and control waste and properly dispose of wastes, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. Such measures shall include the requirements imposed by federal, state, county, or local authorities.

(3) BMPs are site-specific and are described in the document "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices" (EPA 832-r-92-005) or other guidance documents available from EPA and/or ADEQ.

(C) If a best management practice is required by the Director to prevent a pollutant from entering the public storm drain system, the person receiving the notice of such a requirement may petition the Director to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten working days setting forth any reasons and proposed alternatives, the Director will act within 30 days of receipt of the petition, but during the time a final decision is made, the applicant shall:

(1) Fully observe the aforementioned BMP; and

(2) Abstain from the pollutant-producing activity in question.  
(Ord. 2016-02, passed 9-8-2016)

#### **§ 51.07 POST-CONSTRUCTION.**

Property owners or operators shall ensure long-term operation and maintenance of post-construction storm water runoff control mechanisms, such as retention basins, dry wells, and other measures described in 40 C.F.R. § 122.34(b)(5)(iii).  
(Ord. 2016-02, passed 9-8-2016)

#### **§ 51.08 CLEANUP AND NOTIFICATION REQUIREMENTS.**

(A) As soon as any owner or operator has actual or constructive knowledge of any discharge which may result in pollutants entering the public storm drain system, such person shall promptly take all necessary steps to ensure the discovery of the source and the extent and proceed with containment and cleanup of such discharge.

(B) The owner or operator shall notify the Director of the discharge in both of the following manners:

(1) By telephone as soon as practical but no later than 24 hours after discovery if non-hazardous materials are involved or by calling 9-1-1 immediately upon discovery if hazardous materials are involved; and



(2) By written report within ten days after the initial notice identifying the discharge source, extent, pollutant, measures taken to mitigate the discharge, and preventative measures put in place to prevent a subsequent discharge.  
(Ord. 2016-02, passed 9-8-2016)

### § 51.09 INSPECTIONS.

(A) *Authority to inspect.* Upon presentation of credentials and at all reasonable or necessary hours, all authorized employees of the town shall have access to all premises and to all records pertaining to those premises for purposes of ensuring compliance with this chapter. Inspection, interviewing, copying, sampling, photographing, and other activities conducted on the premises shall be limited to those which are reasonably needed by the town in determining compliance with the requirements of this chapter. All persons shall allow such activities under safe and non-hazardous conditions with a minimum of delay.

(B) *Monitoring activities.* The Director may order any person engaged in any activity or owning or operating on any premises which may cause or contribute to discharges of pollutants to the public storm drain system in violation of this chapter or any applicable NPDES or AZPDES storm water permit condition to undertake such monitoring activities and analyses and furnish such reports as the Director reasonably may specify. The costs of such activities, analyses, and reports shall be borne by the recipient of the order.

(C) *Access refusal.* If an authorized employee of the town has been refused access to any premises, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect, interview, copy, photograph, or sample as part of an inspection and sampling procedure of the town to determine compliance with the requirements of this chapter or any related laws or regulations, or to protect the environment and the public health, safety, and welfare of the community, then the Director may seek issuance of a search warrant from the town municipal court.  
(Ord. 2016-02, passed 9-8-2016)

### § 51.10 ENFORCEMENT.

(A) *Charges levied pursuant to this chapter shall be collected by the Director.* The Director shall make and enforce economic and efficient protection of the town's storm drain system.

(B) *Owner of record.* The owner of record of the property upon which a violation of this chapter occurs shall be presumed to be a person having lawful control over the activity or premises unless it is demonstrated that another person has knowingly and in good faith accepted responsibility for the activity at issue. If more than one person is identified as the owner, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or premises.

(C) *Change in ownership or control.* Should there be a change of ownership or control of any property subject to this chapter, the previous owner or person or entity having previously had control of said property shall promptly file a notice with the Director stating the ownership or control of said

property has changed, and provide complete contact information for the new owner and/or person or entity having control. The new owner and/or person or entity in control of property shall, within ten days of acquiring ownership or control, file with the Director a sworn statement which provides full contact information and acknowledges the location of all facilities and equipment, including but not limited to dry wells, storm piping, and other infrastructure, required by the storm water ordinance and this chapter. In addition to the foregoing, the sworn statement shall state that the new owner or person or entity in control will continue with their operation and maintenance. Failure to provide the notices and/or sworn statements required by this chapter shall subject the violator to civil and criminal penalties as set forth hereafter.

(D) *Notice of violation.* The Director may issue a written notice of violation to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice of violation shall be a separate violation for each day beyond the thirtieth day following the notice of violation. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. In appropriate situations the Director may notify the person orally either in person or by telephone prior to, and in some cases in lieu of, written notification.

(E) *Consent orders.* The Director may enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements, or other similar documents establishing an agreement with any person responsible for noncompliance. Such documents will include specific action to be taken by the person to correct the noncompliance within a time period specified by the document, including an identification and description of the best management practices and measures to utilize in implementing the order. Such documents shall have the same force and effect as any other orders issued under this chapter and shall be judicially enforceable.

(F) *Cease and desist orders.* When the Director finds that a person has violated, or continues to violate, any provision of this chapter or any related laws, or regulations, or that the person's past violations are likely to recur, the Director may issue an order to the person directing them to cease and desist all such violations and direct the person to immediately comply with all requirements; and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the person. A person's failure to comply with an order of the Director issued pursuant to this chapter shall constitute a violation of this chapter.

(Ord. 2016-02, passed 9-8-2016)

## § 51.99 PENALTY.

(A) *Civil penalties.* In addition to any other enforcement authority contained in this chapter, the Director may issue a civil citation to any person who has violated, or continues to violate, any provision of this chapter or any related laws or regulations. A person who violates any requirement of this chapter or any applicable NPDES or AZPDES storm water permit condition shall be civilly liable to the town for a sum not to exceed \$500 per day for each violation.

(B) *Criminal penalties.* A person who willfully or negligently violates any provision of this chapter or any related laws or regulations shall, upon conviction, be guilty of a misdemeanor and be punished by a fine not to exceed \$2,500 per day for each violation and/or by imprisonment for a period not to exceed six months.

(C) *Criminal prosecution.* Some intentional violations may constitute criminal violations of federal, state, and town law, and that under such circumstances, the Director may seek the assistance of the EPA, the state, or the town prosecutor to commence civil and/or criminal action against any person who violates any requirement of this chapter or any applicable NPDES or AZPDES storm water permit condition.

(D) *Revoking or withholding of permit.* In addition to or in lieu of all other available penalties, the town may revoke or withhold any permit, approval, or license to construct improvements to real property or operate a business in the town if the holder of such permit, approval, or license is in violation of any requirement of this chapter or any applicable NPDES or AZPDES storm water permit condition.

(E) *Liability for costs.* The Director may assess liability for costs to any person in violation of this chapter for all actual costs incurred by the town in surveillance, sampling and testing, abatement, and remediation associated with a discharge. Additionally, the Director may assess liability for costs to any person whose discharge resulted in a violation of the town's AZPDES storm water permit.

(Ord. 2016-02, passed 9-8-2016)



## TITLE VII: TRAFFIC CODE

### Chapter

- 70. ADMINISTRATION
- 71. TRAFFIC CONTROL
- 72. PARKING
- 73. HEAVY TRUCK TRAFFIC
- 74. TRAFFIC SCHEDULES



## CHAPTER 70: ADMINISTRATION

### Section

- 70.01 Duty of Police Department
- 70.02 Records of traffic violations
- 70.03 Police Department to investigate accidents
- 70.04 Traffic accident studies
- 70.05 Traffic accident reports

### § 70.01 DUTY OF POLICE DEPARTMENT.

(A) It shall be the duty of the Police Department, under the direction of the Police Chief, to provide for the enforcement of the street traffic regulations of the 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 by this chapter.

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

(C) The duties imposed on the Police Department by this chapter may be performed by a police agency under contract with and authorized by the town.  
(1989 Code, § 13-1-1)

### § 70.02 RECORDS OF TRAFFIC VIOLATIONS.

(A) The Police Department, under the direction of the Police Chief, shall keep a record of all violations of the traffic laws of the town or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

(B) All forms for records of violations and notices shall be serially numbered. For each month and year, a written record shall be kept available to the public showing the disposal of all such forms.

(C) All records and reports shall be public records.  
(1989 Code, § 13-1-2)

#### **§ 70.03 POLICE DEPARTMENT TO INVESTIGATE ACCIDENTS.**

It shall be the duty of the Police Department, under the direction of the Police Chief, to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.  
(1989 Code, § 13-1-3)

#### **§ 70.04 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.  
(1989 Code, § 13-1-4)

#### **§ 70.05 TRAFFIC ACCIDENT REPORTS.**

(A) The Police Department, under the direction of 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, under the direction of the Police Chief, shall receive and properly file all accident reports made to it under state law or under any law of the town. All such accident reports made by drivers shall be for the confidential use of the town. No such report shall be admissible in any civil or criminal proceeding, other than upon request of any person making such report or upon request of the court having jurisdiction, to prove compliance with the laws requiring the making of any such report.  
(1989 Code, § 13-1-5)



## CHAPTER 71: TRAFFIC CONTROL

### Section

- 71.01 Directing traffic
- 71.02 Obedience to traffic regulations
- 71.03 Use of coasters, roller skates, and similar devices restricted
- 71.04 Traffic-control devices
- 71.05 Authority to designate crosswalks, establish safety zones, and mark traffic lanes
- 71.06 Authority concerning turning markers
- 71.07 Authority concerning turn signs
- 71.08 Limitations on turning around
- 71.09 One-way streets and alleys
- 71.10 Regulation of traffic intersections
- 71.11 Drivers to obey signs
- 71.12 Processions
- 71.13 Speed limits
- 71.14 Alley usage
- 71.15 **Traffic Control Markings and Devices (Add this subsection)**
- 71.99 Penalty

### ***Cross-references:***

*Abandoned vehicles on private property, see Ch. 96*

*Heavy truck traffic, see Ch. 73*

*Operation of vehicles on public and private property, see § 93.05*

*Police and Fire Departments, see Ch. 33*

*Traffic schedules, see Ch. 74*

*Vehicles on park grounds, see § 97.03*

*Vehicles parking and use on vacant lots, see § 93.04*

### **§ 71.01 DIRECTING TRAFFIC.**

(A) The police officers are hereby authorized to direct all traffic by voice, hand, or signal.

(B) Firefighters, when at the scene of a fire, may direct or assist a police officer in directing traffic thereat or in the immediate vicinity.

(1989 Code, § 13-2-1)

**§ 71.02 OBEDIENCE TO TRAFFIC REGULATIONS.**

It is unlawful, except as otherwise provided in this code, for any person to do any act forbidden or fail to perform any act required by this chapter or willfully fail or refuse to comply with any lawful order or direction of a police officer or of any Fire Department official.

(1989 Code, § 13-2-2) Penalty, see § 71.99

**§ 71.03 USE OF COASTERS, ROLLER SKATES, AND SIMILAR DEVICES RESTRICTED.**

No person upon roller skates or riding any coaster, toy vehicle, or similar device shall 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.

(1989 Code, § 13-2-3) Penalty, see § 71.99

**§ 71.04 TRAFFIC-CONTROL DEVICES.**

(A) The Police Chief, with the approval of the Council, shall place and maintain traffic-control devices, signs, and signals when and as required under the traffic regulations of the town to make effective the provisions of said regulations, and may place and maintain such additional traffic-control devices as he or she 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.

(1989 Code, § 13-2-4)

**§ 71.05 AUTHORITY TO DESIGNATE CROSSWALKS, ESTABLISH SAFETY ZONES, AND MARK TRAFFIC LANES.**

The Police Chief is hereby authorized, on approval by the Council:

(A) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his or her opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he or she may deem necessary;

(B) To establish safety zones of such kind and character and at such places as he or she may deem necessary for the protection of pedestrians; and

(C) To mark lanes for traffic on street pavement at such places as he or she may deem advisable, consistent with the traffic laws of the town.

(1989 Code, § 13-2-5)

**§ 71.06 AUTHORITY CONCERNING TURNING MARKERS.**

(A) The Police Chief is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at 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.

(1989 Code, § 13-2-6) Penalty, see § 71.99

**§ 71.07 AUTHORITY CONCERNING TURN SIGNS.**

(A) (1) The Police Chief, on approval by the Council, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or U-turn and shall place proper signs at such intersections.

(2) 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 any such sign.

(1989 Code, § 13-2-7) Penalty, see § 71.99

**§ 71.08 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, nor shall a driver upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

(1989 Code, § 13-2-8) Penalty, see § 71.99

**§ 71.09 ONE-WAY STREETS AND ALLEYS.**

(A) The Council shall by resolution designate any streets or alleys which are to be limited to one-way traffic.

(B) (1) When any resolution of the Council designates any one-way street or alley, the Police Chief shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place.

(2) Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.  
(1989 Code, § 13-2-9)

#### **§ 71.10 REGULATION OF TRAFFIC INTERSECTIONS.**

(A) The Council shall by resolution designate through streets, intersections where stops are required, and intersections where vehicles shall yield the right-of-way.

(B) When any resolution of the Council shall designate any through street or intersection where vehicles are to stop or yield the right-of-way, the Police Chief shall erect and maintain the appropriate signs at every location where a vehicle must stop or yield the right-of-way.  
(1989 Code, § 13-2-10)

#### **§ 71.11 DRIVERS TO OBEY SIGNS.**

(A) Whenever traffic signs are erected as provided in this chapter, every driver of a vehicle shall obey such signs unless directed to proceed by a police officer or a traffic-control signal.

(B) No driver shall drive upon or through any private property such as an oil station, vacant lot, or similar property to avoid obedience to any regulation included in this chapter.  
(1989 Code, § 13-2-11) Penalty, see§ 71.99

#### **§ 71.12 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 a police officer.

(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.  
(1989 Code, § 13-2-12) Penalty, see§ 71.99

§ 71.13 SPEED LIMITS.

(A) No person shall drive a vehicle on any street within the town limits (add: except as designated in Chapter 74) at a speed in excess of 25 mph, and any speed in excess of this speed shall be prima facie evidence that the speed is too great and therefore unreasonable and unlawful.

(B) The maximum lawful speed as provided in this section shall be reduced to that which is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing as per A.R.S. § 28-701D.

(C) No person shall drive a motor vehicle at a speed that is less than that which is reasonable and prudent under existing conditions.  
(1989 Code, § 13-2-13) Penalty, see § 71.99

§ 71.14 ALLEY USAGE.

(A) (1) **ALLEY** is hereby defined as a town right-of-way which primarily provides public safety access to the rear of buildings or lots and is not intended for general use by members of the public who do not own or reside on property which abuts the alley. Alleys are also used for public utility easements. An alley is contrasted with a street which is a town right-of-way that is intended for general use of the public whether or not they own or reside in property that abuts the street. Generally, a street provides access to the front or side of a lot.

(2) The Town Manager is hereby authorized to post appropriate "no trespassing" signs in any alley identified by resolution of the Town Council. Such signs shall advise the public that trespassing in the alley shall result in criminal prosecution and penalties as set forth hereafter. (add: Resolution 1999-21)

(3) This section will not apply to a resident whose residence or property is contiguous to the alley and who is driving or walking or working in the alley for legitimate reasons.

(4) The Town Manager may designate only certain hours that the no trespassing rules would be in effect or he or she may designate a 24-hour period. If less than a 24-hour period is designated, the hours that the ordinance is in effect must be set forth on the no trespassing sign.

(5) No prosecution shall occur under this section until the Council has designated the alley and an appropriate sign has been placed there.

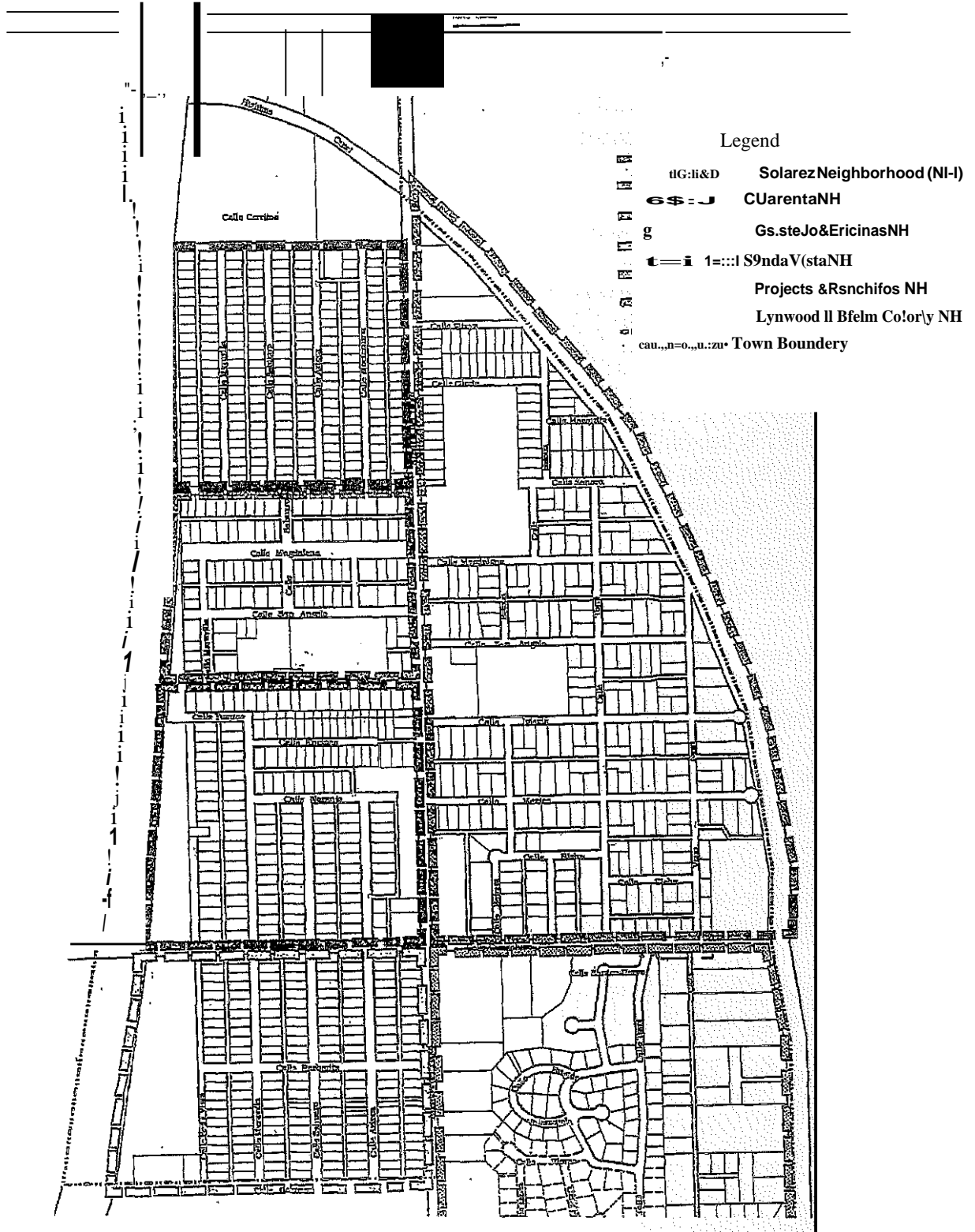
(B) **Remove section B and related map.** The alleys set forth on the following exhibit are appropriate alleys for use restrictions.

(Add new subsection 71.15 Traffic Control Markings and Devices.

All traffic control markings and devices used in the Town will be in conformance with the Uniform Manual on Traffic-Control Devices.)

# Guadalupe - Traffic Code

#31



**§ 71.99 PENALTY.**

(A) Any person violating any of the provisions of A.R.S. Title 28, which is classified as a civil traffic violation, shall be subject to the imposition of a civil sanction not to exceed \$250, unless another penalty is specified.

(B) (1) In addition to any civil sanction imposed, the town court shall assess a default fee of \$25.

(2) A default cost in the amount of \$25 shall be assessed on each civil traffic violation for failure to appear in a civil traffic violation case, or for failure to pay or satisfy in full, a civil sanction imposed in a civil traffic violation case when due.

(C) Anyone convicted of violating § 71.14 is guilty of a Class 3 Misdemeanor subject to a maximum fine of up to \$500 and incarceration in jail for up to 30 days, or both.  
(Ord. 97-04, passed--; Ord. 99-06, passed 11-18-1999; Res. 99-21, passed 11-18-1999; Ord. 2005-03, passed 6-9-2005)





## CHAPTER 72: PARKING

### Section

- 72.01 Method of parking
- 72.02 Blocking traffic
- 72.03 Parking adjacent to schools
- 72.04 Authority to erect signs restricting parking
- 72.05 Parking vehicles on sidewalks
- 72.06 Abandoned vehicles on public property
- 72.07 Restricted parking areas for the handicapped
- 72.08 Parking vehicles for sale
  
- 72.99 Penalty

### ***Cross-reference:***

*Abandoned vehicles on private property, see Ch. 96*

*Operation of vehicles on public and private property, see § 93.05*

*Vehicles parking and use on vacant lots, see § 93.04*

### **§ 72.01 METHOD OF PARKING.**

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 18 inches of the right hand curb.

(1989 Code, § 13-3-1)

### **§ 72.02 BLOCKING TRAFFIC.**

(A) No person shall stop, stand, or park any motor vehicle, or other vehicle, upon a street in the town in such a manner or under such conditions as to leave available less than 20 feet of the width of the roadway for the free movement of vehicular traffic, except that a person may stop temporarily, in the actual loading or unloading of passengers or, when necessary, in the observance of traffic signs or signals of a police officer.

(B) No person shall park a motor vehicle, or other vehicle, within an alley or entrance to a private driveway except for the loading or unloading of materials, and not then unless such loading or unloading can be accomplished without blocking the alley to the free movement of vehicular traffic.

(1989 Code, § 13-3-2) Penalty, see § 72.99

**§ 72.03 PARKING ADJACENT TO SCHOOLS.**

When signs are erected indicating no parking on that side of the street adjacent to any school property, no person shall park a vehicle in any such designated place for one hour before school opens until one hour after school closes on any school day.

(1989 Code, § 13-3-3) Penalty, see§ 72.99

**§ 72.04 AUTHORITY TO ERECT SIGNS RESTRICTING PARKING.**

The Town Manager may direct the Police Chief to 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. No person shall stop or stand a vehicle in disobedience to such parking restrictions. The Town Manager shall report any changes to the parking regulations of the Town Mayor and Town Council within 30 days of any such change. The parking change shall continue in effect until such time as either the Manager or the Town Council orders that such regulation be rescinded or amended.

(1989 Code,§ 13-3-4) (Ord. 99-03, passed2-II-1999) Penalty, see§ 72.99

**§ 72.05 PARKING VEHICLES ON SIDEWALKS.**

No person shall park any vehicle, whether in usable condition or not, nor shall an owner permit his or her vehicle to be parked upon any sidewalk or public right-of-way in the town.

(1989 Code,§ 13-3-5) Penalty, see§ 72.99

**§ 72.06 ABANDONED VEHICLES ON PUBLIC PROPERTY.**

Any vehicle parked upon a public sidewalk for any length of time or any vehicle disabled or otherwise remaining parked upon a public street of the town for more than three days without being moved is declared to be an abandoned vehicle and the police shall remove said vehicle from the streets or sidewalk of the town with the owner of said vehicle to pay the removal cost.

(1989 Code, § 13-3-6) (Ord. 2005-07, passed 6-9-2005)

**§ 72.07 RESTRICTED PARKING AREAS FOR THE HANDICAPPED.**

No person shall park a vehicle in a parking space set aside and identified for use only by persons with physical disabilities, unless the vehicle has displayed thereon a distinguishing insignia or numbered plates bearing the international wheelchair symbol as provided in A.R.S. § 28-881.

(1989 Code,§ 13-3-7) Penalty, see§ 72.99

**§ 72.08 PARKING VEHICLES FOR SALE.**

(A) No person shall park, or permit to be parked, any motor vehicle or trailer as defined in A.R.S. § 28-101, or any boat or watercraft as defined in A.R.S. §§ 5-301 et seq., on any lot or area within the town for the purpose of offering said vehicle, trailer, or boat for sale unless the property in question is the subject of appropriate zoning, licenses, and permits, including a business license, to allow the operation of a business selling motor vehicles, trailers, or watercraft on said lot.

(B) This section shall not be applicable to vehicles, trailers, or watercraft parked by the registered owner on a residential lot, owned by the owner of the motor vehicle, trailer, or watercraft, and upon which said owner actually resides, providing that no more than two such sales per calendar year shall be allowed.

(C) Nothing in this section shall preclude a person, in an appropriate case, from also being charged with criminal trespass and/or operating a business without a license.  
(Ord. 2000-01, passed 1-13-2000) Penalty, see§ 10.99

**§ 72.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Violation of§ 72.08 is a civil traffic violation and shall be a minimum fine of \$85, with a maximum fine of \$250. #10 (No changes as per town attorney)



## CHAPTER 73: HEAVY TRUCK TRAFFIC

### Section

- 73.01 Definitions
- 73.02 Manager's authority to designate streets
- 73.03 Heavy truck traffic prohibited on some streets
- 73.04 Future prohibition
- 73.05 Warning signs
  
- 73.99 Penalty

### § 73.01 DEFINITIONS.

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

**HEAVY TRUCK**, A motor vehicle having a gross vehicle weight of 9,600 pounds or more or any truck and trailer combination exceeding 9,600 pounds or any truck and trailer combination consisting of 18 wheels or more.

**THROUGH TRUCK TRAFFIC**. A heavy truck which is traveling through the town and has neither a departure point nor a delivery and/or destination point within the town limits.  
(Ord. 2001-07, passed 9-27-2001)

### § 73.02 MANAGER'S AUTHORITY TO DESIGNATE STREETS.

The Manager shall have the authority to declare that through heavy truck traffic is forbidden on such streets as are designated by the Manager.  
(Ord. 2001-07, passed 9-27-2001)

### § 73.03 HEAVY TRUCK TRAFFIC PROIBDITED ON SOME STREETS.

No through heavy truck traffic shall operate on Avenida Del Yaqui, nor on Guadalupe Road anywhere within the town unless such heavy traffic has departed from a departure point within the town and/or is traveling to a delivery or destination point within the town.  
(Ord. 2001-07, passed 9-27-2001) Penalty, see§ 73.99

**§ 73.04 FUTURE PROHIBITION.**

The Manager may ban through heavy truck traffic from additional streets in the future.  
(Ord. 2001-07, passed 9-27-2001)

**§ 73.05 WARNING SIGNS.**

Prior to enforcement of this chapter, the Manager will cause appropriate warning signs in compliance with the *(Change Uniform Manual on Traffic-Control Devices to) Manual on Uniform Traffic-Control Devices* to be placed at appropriate intervals on streets where through heavy truck traffic is banned.  
(Ord. 2001-07, passed 9-27-2001)

**§ 73.99 PENALTY.**

Any violation of this chapter shall be a class one misdemeanor punishable by a fine not to exceed \$2,500 and/or a jail term not to exceed six months.  
(Ord. 2001-07, passed 9-27-2001)  
*#10 (no change per town attorney)*

## CHAPTER 74: TRAFFIC SCHEDULES

### Schedule

#### I Speed limits

### **SCHEDULE I. SPEED LIMITS.**

#### *(A) Commercial vehicles.*

(1) The speed limit for commercial vehicle traffic on San Angelo Street between Avenida del Yaqui and Calle Maravilla shall be 15 mph.

(2) The speed limit for commercial vehicle traffic on Calle Iglesia between Avenida de! Yaqui and Calle Yusuco shall be 15 mph.

(3) The Public Works Department is hereby empowered to post signs regulating the speed of commercial vehicle traffic.

(4) For purposes of this division (A), **COMMERCIAL VEHICLE** means any vehicle used for commercial purposes, whether or not in use as such at the particular time of an offense under this division (A), having a gross vehicle weight of 10,000 pounds or more. **COMMERCIAL VEHICLE** does not include vehicles used for municipal or governmental purposes.

(5) Any person found guilty of violating any provision of this division (A) shall be guilty of a civil traffic violation subject to the provisions of A.R.S. Title 28.

*(B) Speed limits.* The speed limit for vehicle traffic on Calle Vaou Nawi (south of Calle Guadalupe) shall be 15 mph. The Public Works Department is hereby empowered to post signs regulating the speed of vehicle traffic on this street. Any person found guilty of violating this division (B) shall be guilty of a civil traffic violation subject to the provisions of A.R.S. Title 28.

(Ord. 95-01, passed 3-9-1995; Ord. 2006-02, passed 3-23-2006)





## TITLE IX: GENERAL REGULATIONS

### Chapter

- 90. ANIMALS GENERALLY
- 91. FIREWORKS
- 92. HEALTH AND SANITATION
- 93. AIR QUALITY AND FUGITIVE DUST
- 94. CEMETERY REGULATIONS
- 95. PARTY PERMITS
- 96. ABANDONED VEIDCLES ON PRIVATE PROPERTY
- 97. PARK REGULATIONS



## CHAPTER 90 : ANIMALS GENERALLY

### Section

#### *General Provisions*

- 90.01 Dangerous animals
- 90.02 Killing dangerous animals
- 90.03 Noises
- 90.04 Strays; housing
- 90.05 Swine
- 90.06 Animals that bite

#### *Rules and Regulations*

- 90.20 Definitions
- 90.21 The State Veterinarian and the Livestock Board
- 90.22 State Department of Health Services
- 90.23 Enforcement agent
- 90.24 License fees for dogs; tags; records; penalties; classification
- 90.25 Kennel permit; fee; violation; classification
- 90.26 Anti-rabies vaccination; vaccination and license stations
- 90.27 Rabies Control Fund
- 90.28 Dogs not permitted at large; wearing license
- 90.29 Establishment of pounds; impounding and disposal of dogs and cats; reclaiming impounded dogs and cats; pound fees
- 90.30 Animals that bite; reporting; and authority to destroy animals
- 90.31 Unlawful interference with enforcement agent
- 90.32 Removing impounded animals
- 90.33 Unlawful keeping of dogs
- 90.34 Disposal of fecal matter
- 90.35 Violation; classification
- 90.36 Dogs; liability
- 90.37 Proper care, maintenance, and destruction of impounded animals

#### ***Cross-reference:***

*General offenses, see Ch. 130*

*Police and Fire Departments, see Ch. 33*

*Park regulations, see Ch. 37*

**GENERAL PROVISIONS****§ 90.01 DANGEROUS ANIMALS.**

It is unlawful to permit any dangerous, vicious animal of any kind to run at large within the town, and such animals shall be immediately impounded by the Police Department. Exhibitions or parades of animals, other than domestic pets, may be conducted only upon securing a permit from the Town Marshal.

(1989 Code, § 6-1-1) Penalty, see § 90.99

**§ 90.02 KILLING DANGEROUS ANIMALS.**

The members of the Police Department are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

(1989 Code, § 6-1-2)

**§ 90.03 NOISES. #32**

It is unlawful and hereby declared a public nuisance for any person to harbor or keep any animals which habitually bark, howl, yelp, squeal, shriek or make any other sounds which disturb the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. (Remove wording: It is unlawful to harbor or keep any animals that disturb the peace by loud noises at any time of the day or night.)

(1989 Code, § 6-1-3) Penalty, see § 90.99

**§ 90.04 STRAYS; HOUSING.**

(A) Any person who keeps or causes to be kept any horses, mules, cattle, burros, goats, sheep, or other livestock or poultry shall keep such livestock or poultry in a pen or similar enclosure to prevent their roaming at large within the corporate limits of the town.

(B) Any such livestock or poultry running at large may be impounded by the Police Department.

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

(1989 Code, § 6-1-4) Penalty, see § 90.99

**§ 90.05 SWINE.**

It is unlawful to keep any live swine or pigs in the town.

(1989 Code, § 6-1-5) Penalty, see § 90.99

**§ 90.06 ANIMALS THAT BITE.**

Whenever any animal, except a dog, bites a person, the person so bitten and the owner of the animal shall immediately notify the enforcement agent, who shall cause an examination of the animal to be made by a duly licensed physician or a duly licensed veterinarian, and shall order the animal held on the owner's premises or shall have it impounded as long as necessary for a complete examination, if it is determined that the animal is infected with rabies or other dangerous, contagious, and infectious disease, it shall be the duty of the enforcement agent to destroy such animal in as humane a manner as is reasonably possible. If at the end of the quarantine or impoundment, a veterinarian is convinced that the animal is free from such disease, the animal shall be released. If the animal dies during the period of quarantine or impoundment, its head shall be sent to the laboratory at the Department of Health Services for examination.

(1989 Code, § 6-1-6)

***RULES AND REGULATIONS***

**§ 90.20 DEFINITIONS.**

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

***ANIMAL.*** Any animal of a species that is susceptible to rabies, except humans.

***AT LARGE.*** 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 or confined shall not be considered to be running ***AT LARGE.***

***CUSTODIAN.*** Any person keeping, possessing, harboring, or maintaining any dog.

***DEPARTMENT.*** The State Department of Health Services.

***ENFORCEMENT AGENT.*** The person in each county who has responsibility for the enforcement of this chapter and the regulations promulgated thereunder.

***IMPOUND.*** 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.

***KENNEL*** An enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors, or maintains five or more dogs under controlled conditions.

***LIVESTOCK.*** Neat animals, horses, sheep, goats, swine, mules, and asses.

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**OWNER.** Any person keeping an animal other than livestock for more than six consecutive days.

**POUND.** Any establishment authorized for the confinement, maintenance, safekeeping, and control of dogs and other animals that come into the custody of the enforcement agent in the performance of his or her official duties.

**RABIES QUARANTINE AREA.** Any area in which a state of emergency has been declared to exist due to the occurrence of rabies in animals in or adjacent to this area.

**STRAY DOG.** Any dog three months of age or older running at large that is not wearing a valid license tag.

**VACCINATION.** The administration of an anti-rabies vaccine to animals by a veterinarian or in authorized pounds by employees trained by a veterinarian.

**VETERINARIAN.** Unless otherwise indicated, any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency.

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

**VICIOUS ANIMAL.** Any animal of the order carnivora that has a propensity to bite human beings without provocation and has been so declared after a hearing before a justice of the peace or a Town Magistrate.

**VICIOUS DOG.** Includes:

(1) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals;

(2) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter;

(3) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal;

(4) Any dog owned or in the custody of a custodian primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

(5) Any pit bull terrier, which shall be defined as any American pit bull terrier or Staffordshire bull terrier or American Staffordshire terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American pit bull terrier or Staffordshire bull terrier or

American Staffordshire terrier as to be identifiable as partially of the breed of American pit bull terrier or Staffordshire bull terrier or American Staffordshire bull terrier.

(1989 Code, § 6-2-1) (Ord. 89-04, passed 7-13-1989; Ord. 2003-10, passed 10-23-2003)

**§ 90.21 THE STATE VETERINARIAN AND THE (replace LIVESTOCK BOARD with) THE DEPARTMENT OF AGRICULTURE.**

(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 re-vaccination and the dosage and method of administration of the vaccine.

(B) The State 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.

(1989 Code, § 6-2-2)

**§ 90.22 STATE DEPARTMENT OF HEALTH SERVICES.**

(A) The State Department of Health Services shall regulate the handling and disposition of animals other than livestock that have been bitten by a rabid or suspected rabid animal or are showing symptoms suggestive of rabies.

(B) The State Department of Health Services may require the enforcement agent to submit a record of all dog licenses issued and in addition any information deemed necessary to aid in the control of rabies.

(1989 Code, § 6-2-3)

**§ 90.23 ENFORCEMENT AGENT.**

(A) The enforcement agent shall:

(1) Enforce the provisions of this chapter and the regulations promulgated thereunder;

(2) Issue citations for the violation of the provisions of this chapter 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; and

(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.  
(1989 Code, § 6-2-4)

#### **§ 90.24 LICENSE FEES FOR DOGS; TAGS; RECORDS; PENALTIES; CLASSIFICATION.**

(A) The board of supervisors of each county may set a license fee which shall be paid for each dog three months of age or over that is kept, harbored, or maintained within the boundaries of the state for at least 30 consecutive days of each calendar year. License fees shall become payable at the discretion of the board of supervisors of each county. The licensing period shall not exceed the period of time for re-vaccination as designated by the State Veterinarian. Licensee fees shall be paid within 90 days to the board of supervisors. A penalty fee of \$2 shall be paid if the license application is made less than one year subsequent to the date on which the dog is required to be licensed under this chapter. If the license application is made one year or later from the date on which the dog is required to be licensed, an additional penalty fee of \$10 shall be paid for each subsequent year up to a maximum of \$22. 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 30 consecutive days.

(B) Durable dog tags shall be provided. Each dog licensed under the terms of this chapter 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 chapter. 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 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 removes such tag from any dog for the purpose of willful and malicious mischief or places a dog tag upon a dog unless the tag was issued for that particular dog is guilty of a Class 2 Misdemeanor. (1989 Code, § 6-2-5) (Ord. 2003-10, passed 10-23-2003) Penalty, see § 90.99

#### **§ 90.25 KENNEL PERMIT; FEE; VIOLATION; CLASSIFICATION.**

(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) The annual fee for the kennel permit is \$75.



(C) 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. § 11-1004 (remove 24-367), except if the dog is only being transported to another kennel which has a permit issued under this section.

(D) A person who knowingly fails within 30 days after written notification from the county enforcement agent to obtain a kennel permit is guilty of a Class 2 Misdemeanor. (1989 Code, § 6-2-6) Penalty, see § 90.99 #33

**§ 90.26 ANTI-RABIES VACCINATION; VACCINATION AND LICENSE STATIONS.**

(A) Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination, and type, manufacturer, and serial number of the vaccine used, and date re-vaccination is due. A duplicate of each rabies vaccination certificate issued shall be transmitted to the enforcement agent on or before the tenth day of the month following the month during which the dog was vaccinated. No dog shall be licensed unless it is vaccinated in accordance with the provisions of this chapter and the regulations promulgated thereunder.

(B) A dog vaccinated in any other state prior to entry into this state may be licensed in this state 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 chapter 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. (1989 Code, § 6-2-7)

**§ 90.27 RABIES CONTROL FUND.**

(A) The enforcement agent or his or her authorized representative shall place the monies collected by him or her under the provisions of this chapter in a special fund to be known as the Rabies Control Fund to be used for the enforcement of the provisions of this chapter and the regulations promulgated thereunder.

(B) Any unencumbered balance remain in the Rabies Control Fund at the end of a fiscal year shall be carried over into the following fiscal year. (1989 Code, § 6-2-8)

**§ 90.28 DOGS NOT PERMITTED AT LARGE; WEARING LICENSE.**

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

(B) Any dog over the age of three months on or off the premises of owner and not under physical control of the owner or persons acting for the owner, or any dog not in a suitable enclosure which actually confines the dog, shall wear a collar or harness to which is attached a valid license tag. Any dog over the age of three months on the premises of the owner and either confined or under physical control of the owner or persons acting for the owner need not wear a collar or harness with a valid license attached, provided that they are properly vaccinated, licensed, and in compliance with all sections of this chapter. 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 state's Racing Commission, and such dogs while being transported to and from such events, need not wear a collar or harness with a valid license attached provided that they are properly vaccinated, licensed, and controlled.

(C) If any dog is at large on the public property, then said dog's owner or person acting for the owner is in violation of this chapter.

(D) If any dog is at large on the public park or school property, then said dog's owner or persons acting for the owner is in violation of this chapter.

(E) If any female dog during her breeding or mating season or any vicious dog at large, then said dog's owner or persons acting for the owner is in violation of this chapter.

(F) Any owner or persons acting for the owner who allows a dog to run at large shall be considered in violation of this chapter unless one of the following four exceptions applies.

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

(2) If said dog is used for control of livestock or while being used or trained for hunting or being exhibited or trained at a kennel club event or while engaged in races approved by the state's Racing Commission.

(3) While said dog is actively engaged in a dog obedience training class and accompanied by and under the control of his or her owner or persons acting for the owner or trainer as specified in division (J) below.

(4) If said dog, whether on or off the premises of the owner or persons acting for the owner, is controlled as proved in division (F)(1) above, or is within a suitable enclosure which actually confines the dog.

(G) The owner or persons acting for the owner of a dog is responsible for the acts and conduct of the dog at all times when the dog is in a public park. All dogs three months of age or older in or upon the premises of a public park must be currently license and shall wear a collar and durable valid lines tag as provided by this chapter.

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

(I) At all times when a dog is off leash in a designated dog exercise area as provided in division (H) above, the dog must be accompanied by and under the control of the owner or persons acting for the owner. Additionally, the owner or persons acting for the owner must at all times have a leash of not more than six feet in length in his or her possession.

(J) At all times when a dog is off leash and participating in a dog show, exhibition, or obedience class as provided in division (F) above:

(1) The dog must be accompanied by and under the control of its owner or persons acting for the owner or trainer or handler, who must at all times have a leash in his or her possession; and

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

(K) Any dog at large shall be apprehended and impounded by the enforcement agent.

(1) Said agent shall have the right to enter upon private property when it is necessary to do so in order to apprehend any dog that has been running at large. Such entrance upon private property shall be in reasonable pursuit of such dog and shall not include entry into a domicile or enclosure which confines a dog unless it be at the invitation of the occupant.

(2) Said agent may issue a citation (s) to the dog owner or persons acting for the owner when the dog is at large. The procedure of the issuance of notice to appear shall be as provided for peace officers in A.R.S. § 13-3903, except the county enforcement agent shall not make an arrest before issuing the notice. The issuance of citation(s) pursuant to this chapter shall be subject to provision 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. (1989 Code, § 6-2-9) (Ord. 2003-10, passed 10-23-2003) Penalty, see§ 90.99

**§ 90.29 ESTABLISHMENT OF POUNDS; IMPOUNDING AND DISPOSAL 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) (1) Each stray dog or any cat impounded shall be kept and maintained at the pound for a minimum of 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 chapter.

(2) 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,

(3) 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) (1) 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.

(2) 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.

(3) Any person purchasing such dog or cat shall pay all pound fees.  
(1989 Code, § 6-2-10)

**§ 90.30 ANIMALS THAT BITE; REPORTING; AND AUTHORITY TO DESTROY ANIMALS.**

(A) (1) (a) An unlicensed or unvaccinated dog or 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 days.

(b) A dog properly licensed and vaccinated pursuant to this chapter that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the enforcement agent.

(2) (a) Any animal other than a dog or cat that bites any person shall be confined and quarantined in an authorized pound or, upon the request of and at the expense of the owner, at a veterinary hospital for a period of not less than 14 days, provided that livestock shall be confined and quarantined for the 14-day period in a manner regulated by the state's Livestock Board.

(b) 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.

(3) Any wild animal which bites any person may be killed and submitted to the enforcement agent or his or her deputies for transmission to an appropriate diagnostic laboratory.

(4) Whenever an animal bites any person, the incident shall be reported to the enforcement agent immediately by any person having direct knowledge.

(5) The county enforcement agent may destroy any animal confined and quarantined pursuant to this chapter prior to the termination of the minimum confinement period for laboratory examination for rabies if:

(a) Such animal shows clear clinical signs of rabies; and

(b) The owner of such animal consents to its destruction.

(6) Any animal subject to licensing under this chapter found without a tag identifying its owner shall be deemed unowned.

(7) 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.

(B) (1) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner or custodian of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot deep. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(2) Owners and custodians of vicious dogs shall not allow their dog or dogs to be unconfined.

(3) Owner and custodians of vicious dogs shall not permit their dog or dogs to go beyond the premises of the property upon which the dog is confined unless the dog is securely muzzled and restrained by a chain leash and under the immediate physical restraint of an adult. The muzzle shall be made in a manner not to injure the dog or restrict its breathing, but shall prevent it from biting.

(4) Owners and custodians of a vicious dog or dogs shall display in a prominent place on the premises where the dog is confined a visible warning sign indicating that there is a vicious dog on the premises. A second such sign shall be posted on the pen or kennel of the animal.

(5) No person shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait, or use any dog for the purpose of causing or encouraging the dog to attack human beings or other animals.

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(6) Owners of vicious dogs must, within 90 days of the enactment of this section, provide proof to the Town Clerk of public liability insurance in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by his or her vicious dog.

(1989 Code, § 6-2-11) (Ord. 89-04, passed 7-13-1989) Penalty, see § 90.99

**§ 90.31 UNLAWFUL INTERFERENCE WITH ENFORCEMENT AGENT.**

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

(1989 Code, § 6-2-12) Penalty, see § 90.99

**§ 90.32 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 chapter and the regulations promulgated thereunder.

(1989 Code, § 6-2-13) Penalty, see § 90.99

**§ 90.33 UNLAWFUL KEEPING OF DOGS.**

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

(1989 Code, § 6-2-14) (Ord. 89-04, passed 7-13-1989) Penalty, see § 90.99

**§ 90.34 DISPOSAL OF FECAL MATTER.**

(A) It is unlawful for any person owning, possessing, harboring, or having the care, charge, control, or custody of a dog to fail to immediately remove and thereafter properly dispose of any fecal matter deposited by said animal in any park or any public property, including, but not limited to, streets, sidewalks, rights-of-way, town buildings, and parking lots.

(B) All such fecal matter shall be disposed of by immediately placing it in a closed or sealed container and thereafter depositing it into a trash receptacle, sanitary disposal unit, or other closed and sealed container.

(C) This section shall not apply to blind persons or disabled persons accompanied by a service dog used for their assistance.

(Ord. 2015-03, passed 5-14-2015) Penalty, see § 90.99

**§ 90.35 VIOLATION; CLASSIFICATION.**

Any person who fails to comply with the requirements of this chapter, or who violates any of its provisions, is guilty of a Class 2 Misdemeanor except as to the provisions of § 90.30(B). Persons who violate or fail to comply with the provisions of § 90.30(B) shall be guilty of a Class 1 Misdemeanor. (1989 Code, § 6-2-15) (Ord. 89-04, passed 7-13-1989)

**§ 90.36 DOGS; LIABILITY.**

Injury to any person or damage to any property by a dog while at large shall be the full responsibility of the dog's owner or person responsible for the dog when such damages were inflicted. (1989 Code, § 6-2-16)

**§ 90.37 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 of sodium pentobarbital;
- (2) Nitrogen gas; or
- (3) T-61 euthanasia solution or its generic equivalent.

(C) If an animal is destroyed by means specified in division (B) above, it shall be done by a licensed veterinarian or in accordance with procedures established by the State Veterinarian pursuant to A.R.S. § 10-1013. (Remove 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 divisions (B) and (C) above.

(1989 Code, § 6-2-17)

**§ 90.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

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(B) A person who fails to obtain a kennel permit under § 90.25 is subject to a penalty of \$25 in addition to the annual fee.

(1989 Code, § 6-2-6)



## CHAPTER 91: FIREWORKS

### Section

- 91.01 Definitions
- 91.02 Fireworks prohibited; exceptions
- 91.03 Limited use of permissible consumer fireworks
- 91.04 Sale of fireworks
- 91.05 Posting of signs by persons engaged in the sale of fireworks; civil penalty
- 91.06 Authority to enforce violations; means of enforcement
- 91.07 Liability for emergency responses related to use of fireworks; definitions
  
- 91.99 Penalty

### § 91.01 DEFINITIONS.

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

**CONSUMER FIREWORK.** Those fireworks defined by A.R.S. § 36-1601.

**DISPLAY FIREWORK.** Those fireworks defined by A.R.S. § 36-1601.

**FIREWORKS.** Any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation that is a consumer firework and display firework as defined by A.R.S. § 36-1601.

**NFPA 1124.** The National Fire Protection Association Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles as defined by A.R.S. § 36-1601.

**NOVELTY ITEMS.** Federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in A.R.S. § 36-1601.

**PERMISSIBLE CONSUMER FIREWORKS.** Consumer fireworks defined by A.R.S. § 36-1601 that may be sold within the town.

***SUPERVISED PUBLIC DISPLAY.*** A monitored performance of display fireworks open to the public and authorized by permit by the Fire Chief or his or her designee.  
(Ord. 2017-03, passed 7-13-2017)

#### **§ 91.02 FIREWORKS PROHIBITED; EXCEPTIONS.**

The use, discharge, or ignition of fireworks within the town is prohibited on all public property, including, but not limited to, public buildings, parking lots, public parks, public schools, streets, and public rights-of-way, except as authorized in § 91.03.

(A) Nothing in this section or chapter shall be construed to prohibit the use, discharge, or ignition of novelty items or the occurrence of a supervised public display of fireworks.

(B) Permits may be granted by the Fire Chief or designee for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged, or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked, during time periods of High Fire Danger warnings. The Fire Chief has authority to impose conditions on any permits granted.

(Ord. 2017-03, passed 7-13-2017) Penalty, see § 91.99

#### **§ 91.03 LIMITED USE OF PERMISSIBLE CONSUMER FIREWORKS.**

The use, discharge, or ignition of permissible consumer fireworks within the town may be used from June 24 through July 6 and December 24 through January 3 of each year, except when a federal or state agency implements a stage one or higher restriction on these dates.

(Ord. 2017-03, passed 7-13-2017)

#### **§ 91.04 SALE OF FIREWORKS.**

(A) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under 16 years of age.

(B) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law, this code, or NFPA 1124.

(C) No person shall sell or permit or authorize the sale of permissible consumer fireworks, except from May 20 through July 6 and December 10 through January 3 of each year. The sale of permissible consumer fireworks shall be prohibited from May 20 through July 6 and December 10 through January 3 when a federal or state agency implements a stage one or higher restriction during these dates. (Ord. 2017-03, passed 7-13-2017) Penalty, see § 91.99

**§ 91.05 POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS;  
CIVIL PENALTY.**

(A) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:

State of Arizona Consumer Fireworks Regulations

Arizona Revised Statutes § 36-1601, et al. The use of permissible consumer fireworks as defined under state law is allowed: June 24 - July 6 and December 24 - January 3

The sale of permissible consumer fireworks as determined under state law is allowed: May 20 - July 6 and December 10 - January 3

All other fireworks are prohibited, except as authorized by local fire department permit.

The sale and use of novelties known as snappers (pop-its), party poppers, glow worms, snakes, toy smoke devices and sparklers are permitted at all times.

Permissible consumer fireworks may not be sold to persons under sixteen years of age.

Check with your local fire department for additional regulations and dates before using.

(B) Signs required under this section may be placed at any retail sales display of permissible consumer fireworks.

(C) The sign shall be eight and one-half inches by eleven inches in size, on cardstock paper, in landscape orientation, and displayed on a contrasting background. A model sign shall be posted on town's website and filed with the Clerk's office.

(Ord. 2017-03, passed 7-13-2017)

**§ 91.06 AUTHORITY TO ENFORCE VIOLATIONS; MEANS OF ENFORCEMENT.**

(A) The Fire Chief or designee, a County Sheriff officer, or the Town Attorney may issue civil complaints to enforce violations of this chapter designated as civil offenses.

(B) Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.

(C) A county officer or the Town Attorney may issue civil or criminal complaints to enforce this chapter.

(Ord. 2017-03, passed 7-13-2017)

**§ 91.07 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 or found responsible for a violation(s) of this chapter 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 division (A) above. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities, or not-for-profit entities that incurred the expenses. ~~(Delete sentence=~~The person's liability for the expense of an emergency response shall not exceed [Dollar Amount] 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. #35

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

***EXPENSES OF AN EMERGENCY RESPONSE.*** Reasonable costs directly incurred by public agencies, for-profit entities, or not-for-profit entities that make an appropriate emergency response to an incident.

***REASONABLE COSTS.*** Includes the costs of providing police, firefighting, rescue, and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

(Ord. 2017-03, passed 7-13-2017)

### § 91.99 PENALTY.

(A) The penalty for violating any prohibition or requirement imposed by this chapter is a Class 3 Misdemeanor unless another penalty is specifically provided for.

(B) Failure to comply with § 91.05 is a civil offense punishable by civil fine of \$300.

(C) Failure to comply with any permit requirements issued by the Fire Chief is a civil offense punishable by civil fine for each violation of \$300.

(Ord. 2017-03, passed 7-13-2017)

#10 No change as per town attorney

## CHAPTER 92: HEALTH AND SANITATION

### Section

#### *Garbage and Trash Collection*

- 92.01 Definitions
- 92.02 Award of contract
- 92.03 Collection agency
- 92.04 Collection hours
- 92.05 Rates

#### *Preparation or Refuse for Collection*

- 92.20 Preparation of refuse
- 92.21 Location for pick up
- 92.22 Lids and covers
- 92.23 Use of containers

#### *Other Methods of Garbage and Trash Removal*

- 92.35 Vehicles and receptacles to be spill-proof
- 92.36 Spilled refuse
- 92.37 Dumping refuse

#### *Removal of Litter*

- 92.50 Definitions
- 92.51 Litter on private property
- 92.52 Owner to maintain premises
- 92.53 Placement of debris
- 92.54 Procedure to compel removal of litter
- 92.55 Notice to remove
- 92.56 Service of notice
- 92.57 Appeal to Council
- 92.58 Removal by town
- 92.59 Lien for removal
  
- 92.99 Penalty

**GARBAGE AND TRASH COLLECTION****§ 92.01 DEFINITIONS.**

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

**GARBAGE.** All putrescible wastes, except sewage and body wastes, including all organic wastes that have been prepared for, or intended to be used as, food or have resulted from the preparation of food, including all such substances from all public and private establishments and residences.

**REFUSE.** All garbage and trash.

**TRASH.** All nonputrescible wastes.  
(1989 Code, § 10-1-1)

**§ 92.02 AWARD OF CONTRACT.**

(A) The Council may by resolution award a contract for the collection and disposal of garbage, swill, refuse, and waste matter to any person which the Council believes best qualified and equipped to perform the work,

(B) The contract shall require the contractor to collect, remove, and dispose of garbage, swill, refuse, and waste matter in the town in accordance with such regulations as may be prescribed by the Council. It shall require the contractor to carry worker's compensation insurance and property damage and public liability insurance in such sums as shall be fixed by resolution.  
(1989 Code, § 10-1-2)

**§ 92.03 COLLECTION AGENCY.**

The town, or other collectors authorized by the town, shall collect all refuse within the town. No person, except as provided in this chapter, shall collect or gather refuse within the town.  
(1989 Code, § 10-1-3) Penalty, see § 92.99

**§ 92.04 COLLECTION HOURS.**

The Town Manager is hereby authorized to establish the hours of collection of refuse within the town.  
(1989 Code, § 10-1-4)

**§ 92.05 RATES.**

The Council shall from time to time fix the rates and classifications for garbage and trash collection within the town and shall make such other rules and regulations as may be necessary to properly administer and enforce this chapter.

(1989 Code, § 10-1-5)

***PREPARATION OR REFUSE FOR COLLECTION***

**§ 92.20 PREPARATION OF REFUSE.**

All refuse shall be prepared for collection or disposed of as follows.

(A) *Garbage. (Replace subsections 1 & 2 and change sections (B) thru I with the following:)*

(1) *Residential garbage will be picked up at the residents' curbside by a waste collection company hired by the town. Garbage containers will be provided each residential structure in the town. The maximum total weight of the waste placed in the containers shall not exceed one hundred pounds. All garbage shall be placed in plastic bags before being placed in the container.*

(2) *Containers found to be no longer serviceable will be replaced by the contracted waste collection company.*

(B) *Trash. Trash shall not be placed in containers provided for residential pickup except as provided in Subsection (F) (2).*

(C) *Brush. Brush shall be cut into such a size that will allow it to be placed in the provided residential container and allow the lid of the container to close.*

## Guadalupe - General Regulations

*(Remove Section D) Rubbish.* Rubbish shall be neatly piled or bundled and placed at a point easily accessible to the collection service. Tree limbs and other foliage waste shall be cut in lengths not to exceed four feet and not over 50 pounds in weight.

(D) *Appliances and vehicles.* The customer shall, **at their sole cost**, remove or cause to be removed all appliances, vehicles, or equipment classed as refuse from his, her, or their premises or the public right-of-way.

*(E) Building materials.*

(1) All owners, contractors, and builders of structures shall, upon the completion of any structure, gather up and haul away, at their sole cost and expense, all refuse of every nature, description, or kind, which has resulted from the building of such structure, including all lumber scraps, shingles, plaster, brick, stone, concrete, and other building material, and shall place the lot and all nearby premises utilized in such construction in a **clean (remove: sightly)** condition.

(2) Residential customers may dispose of small amounts of building materials from time to time, providing it is placed in a container as described above and contains no concrete, masonry, or soil.

(F) *Disposal of industrial and construction rubbish.* It shall be the responsibility of the owner, tenant, lessee, or contractor to dispose of all industrial and construction rubbish and waste accumulated as a result of construction and industrial operations.

**(G) Dangerous and hazardous waste.** Dangerous and hazardous wastes shall be disposed of in accordance with standards established by the Environmental Protection Agency and the disposal shall be the responsibility of the customer.

(H) *Soil and concrete.* Waste soil, concrete, masonry blocks, sod, and rocks shall be disposed of by the owner, tenant, or occupant of the premises **at the sole cost and expense to the party disposing of such materials.**

(1989 Code, § 10-2-1) Penalty, see § 92.99

### § 92.21 LOCATION FOR PICK UP.

All refuse **placed in the town provided plastic container** shall be placed at the front of the property line or parkway **by 6:00 am on the day of collection.** All containers and piles of refuse shall be so located as to not block the street, sidewalk, or gutter, or otherwise be a hazard to pedestrian or vehicular traffic.

(1989 Code, § 10-2-2) Penalty, see § 92.99

### § 92.22 LIDS AND COVERS.

The lids or covers of all containers shall at all times be kept secure so that flies and other insects may not have access to the contents and shall only be removed while the containers and receptacles are being filled, emptied, or cleaned.

(1989 Code, § 10-2-3) Penalty, see § 92.99



**§ 92.23 USE OF CONTAINERS.**

(A) It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that he or she does not own or is not entitled to use as a tenant.

(B) Only town residents shall dispose of locally generated residential garbage or trash in containers furnished by the town or other collector for the accumulation, storage, and collection of all locally generated residential garbage or trash.

(C) Any nonresident of the town who disposes of any refuse or trash in any container furnished by the town or other collector for the accumulation, storage, and collection of all locally generated residential garbage or trash in violation of § 92.23 shall be punishable by a fine of not more than \$500 (remove 350) or no more than 30 days in jail or both.  
(1989 Code, § 10-2-4) Penalty, see§ 92.99

***OTHER METHODS OF GARBAGE AND TRASH REMOVAL***

**§ 92.35 VEHICLES AND RECEPTACLES TO BE SPILL-PROOF.**

It is unlawful for any person to haul or cause to be hauled on or along any public street in the town any garbage, unless such garbage is contained in strong, water-tight vehicles or vehicles with water-tight receptacles, constructed to prevent any such garbage from falling, leaking, or spilling and any odor from escaping.  
(1989 Code, § 10-3-1) Penalty, see§ 92.99

**§ 92.36 SPILLED REFUSE.**

Any person hauling any refuse along the streets of the town shall immediately replace in the conveyance used for such hauling any refuse which may fall upon any street.  
(1989 Code, § 10-3-2)

**§ 92.37 DUMPING REFUSE.**

It is unlawful for any person to place, or cause to be placed, any refuse upon any public or private property within the town, except as specifically permitted in this chapter.  
(1989 Code, § 10-3-3) Penalty, see § 92.99

**REMOVAL OF LITTER****§ 92.50 DEFINITIONS.**

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

**LITTER.** 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 cleaning, 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.

**PRIVATE PREMISES.** Any dwelling, house, building, or other structure designed or used either wholly or in part for residential, commercial, or industrial 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.

**PUBLIC PLACE.** Any and all streets, sidewalks, boulevards, alleys, or other public ways, and any and all public parks, squares, spaces, grounds, and buildings.  
(1989 Code, § 10-4-1)

**§ 92.51 LITTER ON PRIVATE PROPERTY.**

It is unlawful for any person to throw or deposit litter in or upon any street, alley, private grounds, public grounds, school grounds, or church grounds.  
(1989 Code, § 10-4-2) Penalty, see § 92.99

**§ 92.52 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 that this section shall not prohibit the storage of litter in authorized private receptacles for collection.  
(1989 Code, § 10-4-3) Penalty, see § 92.99

**§ 92.53 PLACEMENT OF DEBRIS.**

Any person, firm, or corporation who shall place any rubbish, trash, filth, or debris upon any private or public property not owned or under the control of said person, firm, or corporation shall be guilty of a misdemeanor and, in addition to any fine which may be imposed for violation of any

provision of this section, shall be liable for all costs which may be assessed pursuant to this subchapter for the removal of said rubbish, trash, filth, or debris.

(1989 Code, § 10-4-4) Penalty, see § 92.99

**§ 92.54 PROCEDURE TO COMPEL REMOVAL OF LITTER.**

The Town Manager shall enforce the provisions of §§ 92.51 through 92.53 by prosecuting violators in the Town Magistrate's Court pursuant to the criminal provisions of said sections, or in the event of inability to prosecute violators by reason of failure to secure jurisdiction over their persons, the Manager shall compel the removal of litter by the procedure outlined in §§ 92.55 through 92.59.

(1989 Code, § 10-4-5)

**§ 92.55 NOTICE TO REMOVE.**

(A) To compel the removal of litter through the provisions of this section and §§ 92.56 through 92.59 if a person owning or controlling any property fails, neglects, or refuses to remove or properly dispose of litter located on property owned or controlled by such person, he or she shall be given written notice by certified mail by the Manager to remove all litter from such property within 30 days from the date the notice was received by him or her, and prior to the date of compliance on the notice.

(B) Such notice shall be received not less than 30 days before the date set thereon for compliance and 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 30 days from the date such written notice is received 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 30 days from the date the notice is received by him or her and prior to the date of compliance.

(C) An extension of the 30-day notice may be issued by the Manager in hardship cases not to exceed two weeks from the date of compliance.

(1989 Code, § 10-4-6)

**§ 92.56 SERVICE OF NOTICE.**

Notice shall be personally served on the owner or person controlling such property, by a police officer 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 or her last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property, a duplicate notice shall also be sent to him or her by certified or registered mail at his or her last known address.

(1989 Code, § 10-4-7)

**§ 92.57 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, 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 modify the scope of the work as required in the notice.

(1989 Code, § 10-4-8)

**§ 92.58 REMOVAL BY TOWN.**

(A) When any such person to whom notice, as aforesaid, has been given, and on or before the date of compliance on the notice, or within such further time as may have been granted by the Council on appeal, fails, neglects, or refuses to move from such property any or all litter, the Manager is authorized to cause same to be removed and disposed of at the expense of the owner or person controlling such property.

(B) Upon completion of the work, the Manager shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the property on which said work was done, including 5 % for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such property in the manner prescribed in § 92.56.

(C) The owner or person controlling such property shall have 30 days from the date of service upon him or her to appeal in writing to the Council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the Manager within such 30-day period, then the amount of the assessment as determined by the Manager 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.

(1989 Code, § 10-4-9)

**§ 92.59 LIEN FOR REMOVAL.**

(A) 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 lot or tract of land until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgage 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.

(B) The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action. (1989 Code, § 10-4-10)

**§ 92.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances. #11 (no change)

(B) Any nonresident of the town who disposes of any refuse or trash in any container furnished by the town or other collector for the accumulation, storage, and collection of all locally generated residential garbage or trash in violation of § 92.23 shall be punishable by a fine of not more than \$500 (remove 350) or no more than 30 days in jail or both. (1989 Code, § 10-2-4)

(C) Any violation of § 92.51 shall be punishable by a fine of no more than \$500 or no more than 30 days in jail or both. (1989 Code, § 10-4-2)

(D) Any violation of § 92.52 shall be punishable by a fine of no more than \$500 or no more than 30 days in jail or both. (1989 Code, § 10-4-3)

(E) Any violation of § 92.53 shall be punishable by a fine of no more than \$500 or no more than 30 days in jail or both. (1989 Code, § 10-4-4)



## CHAPTER 93: AIR QUALITY AND FUGITIVE DUST

### Section

- 93.01 Purpose
- 93.02 Definitions
- 93.03 Enforcement
- 93.04 Vehicles parking and use on vacant lots
- 93.05 Operation of vehicles on public and private property
- 93.06 Parking, maneuvering, ingress, and egress
- 93.07 Leaf blower restrictions
- 93.08 Compliance monitoring
- 93.09 Violations deemed a public nuisance
- 93.10 Remedies not exclusive
- 93.11 Compatibility with other regulations
  
- 93.99 Penalty

### § 93.01 PURPOSE.

(A) The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the town by improving air quality through the regulation of fugitive dust and PM-10 particles to the maximum extent practicable as required by federal and state law. The town hereby finds and declares that this chapter is not a land use law.

(B) The town hereby finds and declares the objectives of this chapter are:

- (1) To regulate the contribution of fugitive dust and PM-10 from any town resident, developer, or visitor;
- (2) To establish legal authority to implement all inspection, surveillance, monitoring, and enforcement procedures necessary for compliance with this chapter;
- (3) To meet requirements imposed by state and federal law;
- (4) To limit or prohibit situations that could be recognized as public nuisances; and

(5) To allow for the protection of the public's health and safety, including transportation or traffic control, health and sanitation, and pollution control.

(Ord. 2008-08, passed 4-3-2008)

### § 93.02 DEFINITIONS.

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

**AREA A.** The part of the greater Phoenix metropolitan area where specific pollution control programs are in place for ozone, carbon monoxide, and particulate matter as defined in A.R.S.

§ 49-541(1)

**COUNTYDUSTCONTROLPERMIT.** A permit issued by Maricopa County evidencing that a dust generating operation has a satisfactory dust control plan in place approved by the Maricopa County Air Quality Department.

**FUGITIVE DUST.** The particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind. For the purpose of this chapter, **FUGITIVE DUST** does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, or from pile drivers.

**LANDSCAPE DEBRIS.** Debris generated or accumulated as a result of, or moved in the course of, landscape operations. **LANDSCAPE DEBRIS** includes, but is not limited to, grass clippings, leaves, branches, vegetative matter, rubbish, soil, and rock.

**LEAF BLOWER.** Any device that generates a stream of air that is designed or used to move landscape debris.

**OFF-ROAD VEHICLE.** A self-propelled device and its appurtenances, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motor buggies and excluding devices moved by human power or used exclusively on stationary rails or trades and excluding motorized wheelchairs.

**PERSON.** Any individual, organization, public or private corporation or other entity recognized by law, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, or the state and any of its departments or agencies, or political subdivisions.

**PM-10.** The standard adopted by the Environmental Protection Agency that focuses on smaller particulates in the air that are likely responsible for adverse health effects because of their ability to reach the lower regions of the respiratory tract. The **PM-10** standard includes particles with an aerodynamic diameter smaller than or equal to ten microns (micrometers) as measured by the applicable state and federal reference test methods.



**PUBLIC ROADWAY.** Any street, alley, road, highway, or thoroughfare of any kind that is used by the public or that is open to the public as a matter of right, for the purpose of vehicular travel.

**TOWN.** The Town of Guadalupe, Arizona.

**UNSTABILIZED.** A surface that has not been paved or stabilized with asphaltic concrete, cement concrete, hardscape, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, decomposed granite cover, crushed granite cover, aggregate cover, gravel cover, or grass or other continuous vegetative cover, or any combination of such paving or stabilizing. Water or other stabilization measure approved by the town and authorized by state law.

**VACANT LOT.** Any of the following:

- (1) An unsubdivided or undeveloped tract of land;
  - (2) A subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings, structures, or uses of a temporary or permanent nature;
  - (3) A partially developed residential, industrial, institutional, governmental, or commercial lot;
- or
- (4) For the purpose of this chapter, a **VACANT LOT** is not a public roadway.

**VEHICLE.** A self-propelled device and its appurtenances, excluding devices moved by human power or used exclusively on stationary rails or tracks.  
(Ord. 2008-08, passed 4-3-2008)

### **§ 93.03 ENFORCEMENT.**

*(A) Responsibility for administration.*

(1) The enforcement officer, acting through and designated by the Town Manager, shall administer, implement, and enforce the provisions of this chapter involving air quality and fugitive dust. The enforcement officer may enforce the provisions of this chapter when reasonable cause exists to believe that any person has violated or is in violation of any provision of this chapter.

(2) The term **ENFORCEMENT OFFICER** means any person, who is either an employee, agent, or independent contractor, authorized by the Town Manager to administer, implement, and enforce the provisions of this chapter and who has authority to enforce the town rules, regulations, resolutions, and ordinances. The **ENFORCEMENT OFFICER** may include more than one person, including a civil hearing officer acting in compliance with A.R.S. § 9-500.21.

*(B) Application.*

**Guadalupe - General Regulations**

(1) This chapter shall not apply during a period of public emergency as declared by the town, state authorities, or federal authorities, or if the operation is directed by a peace officer or other public authority.

(2) Pursuant to A.R.S. § 9-500.04(H), the requirements of §§ 93.04, 93.06, and 93.07 do not apply to any site that has a permit issued by a control officer as defined in A.R.S. § 49-471 for the control of fugitive dust from dust generating operations.

(Ord. 2008-08, passed 4-3-2008)

**§ 93.04 VEHICLES PARKING AND USE ON VACANT LOTS.**

A person shall not park or use a vehicle on an unstabilized vacant lot within the town. This section does not apply to sites that have been issued a county dust control permit for the control of fugitive dust from dust generating operations or a special parking permit issued by the town.

(Ord. 2008-08, passed 4-3-2008)

**§ 93.05 OPERATION OF VEHICLES ON PUBLIC AND PRIVATE PROPERTY.**

(A) A person shall not operate any vehicle, including off-road vehicles, on unpaved public property that is not a public roadway or lawful easement without lawful authority. Lawful authority shall consist of rules, regulations, or orders of a federal agency, this state, a county, or municipality, which shall be made available to the public by any one of the following methods:

(1) A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by southwest land management agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ 85004;

(2) Orders of a government land management agency;

(3) Most current maps approved by such government land management agency; and

(4) Virtual posting from a government land management agency.

(B) A person shall not operate any vehicle, including off-road vehicles, on unpaved private property that is not a private road, street, or lawful easement and that is closed by the landowner by rule or regulation of a federal agency, this state, a county, or a municipality or by a proper posting, without the consent of the lawful owner. Consent of the lawful owner consists of either or both of the following:

(1) A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by southwest land management agencies and shall at a

Minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain on Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ 85004;

(2) Prior written permission which contains the following:

(a) The name, address, and telephone number of the person granting permission for the use of the property;

(b) A description of the interest the person granting permission has in the property (i.e., property owner, lessee, or agent);

(c) If the person granting permission is not the owner of the property, the written permission shall also contain the name, address, and telephone number of the property owner;

(d) Specific period of time for which permission for the use of the property is being Granted; and

(e) The signature of the person granting permission for the use of the property.

(C) Whenever any person is stopped by an enforcement officer for a violation of this section, he or she shall, upon the request of the enforcement officer identify or present the lawful authority or consent of the lawful owner required in this section.

(D) The property owner, person entitled to immediate possession of the property, or invitee who has lawful authority may operate such vehicles on the property if such use does not violate any other applicable laws.

(E) Exemptions to this section.

(1) This section shall not apply to the operation of vehicles used in the normal course of business or the normal course of government operations.

(2) This section shall not apply to operations directed by utilities for operation, distribution, and transmission systems, provided that both of the following conditions are satisfied:

(a) Operations are performed with a marked company vehicle; and

(b) If operations are performed with a personal vehicle, then identification of the company shall be visible and readable by the public.

(F) As mandated by A.R.S. § 9-500.27, a person who violates this section is guilty of a Class 3 Misdemeanor.

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(G) As mandated by A.R.S. § 9-500.27, if a person is deemed to have violated this section, in addition to or in lieu of a fine, a judge may order the person to perform at least eight but not more than 24 hours of community restitution, or to complete an approved safety course related to the off-highway operation of motor vehicles, or both.

(Ord. 2008-08, passed 4-3-2008)

**§ 93.06 PARKING, MANEUVERING, INGRESS, AND EGRESS.**

(A) *Other than residential.* All persons who are owners, tenants, or operators shall maintain parking, maneuvering, ingress, and egress areas at developments other than residential buildings with four or fewer units with one or more of the following dust-proof paving methods:

- (1) Asphaltic concrete;
- (2) Cement concrete;
- (3) Penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate; and
- (4) A stabilization method approved by the town.

(B) *Residential.* All persons who are owners, tenants, or operators that have parking, maneuvering, ingress, or egress areas that are 3,000 square feet or more in size at residential buildings with four or fewer units shall maintain said parking or ingress or egress areas with a paving or stabilization method authorized by the town code or permit.

(Ord. 2008-08, passed 4-3-2008)

**§ 93.07 LEAF BLOWER RESTRICTIONS.**

(A) A person shall not operate a leaf blower in a manner that causes landscape debris to be blown into a public roadway.

(B) No person who is an employee or contractor of the town shall operate a leaf blower on any high pollution advisory day forecast by the Department of Environmental Quality, except while in vacuum mode.

(Ord. 2008-08, passed 4-3-2008) Penalty, see § 93.99

**§ 93.08 COMPLIANCE MONITORING.**

(A) The town shall not be replaced until the inspection is completed.

(B) If a property owner has security measures in force, which require proper identification and clearance before entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the town, including the enforcement officer.

(C) Any temporary or permanent obstruction to safe and easy access to the property to be inspected shall be promptly removed by the property owner at the written or oral request of the town, including the enforcement officer, and shall not be replaced until the inspection is completed. The costs of such access shall be borne by the property owner.

(Ord. 2008-08, passed 4-3-2008)

**§ 93.09 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

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

(Ord. 2008-08, passed 4-3-2008)

**§ 93.10 REMEDIES NOT EXCLUSIVE.**

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

(B) The town may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this chapter, including monitoring expenses.

(Ord. 2008-08, passed 4-3-2008)

**§ 93.11 COMPATIBILITY WITH OTHER REGULATIONS.**

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

(Ord. 2008-08, passed 4-3-2008)

**§ 93.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Unless an alternative process or penalty is expressly indicated within this chapter or the town code, when the enforcement officer has reasonable cause to believe that any person has violated or is in violation of any provision of this chapter, the enforcement officer shall issue, for the first violation of this chapter, a warning notice stating which requirement of the chapter was violated.

(2) Unless an alternative process or penalty is expressly indicated within this chapter or the town code, the enforcement officer may impose a civil penalty of \$50 for the second violation of this chapter. Upon a third violation of this chapter, the enforcement officer may impose a civil penalty of \$100. After the fourth and subsequent violations of this chapter, the enforcement officer may impose a **misdemeanor** penalty of \$250.

(Ord. 2008-08, passed 4-3-2008)

## CHAPTER 94: CEMETERY REGULATIONS

### Section

- 94.01 General provisions
- 94.02 Alcohol use banned
  
- 94.99 Penalty

### § 94.01 GENERAL PROVISIONS.

- (A) The cemetery shall be managed by the Town Manager.
  
- (B) Anyone wishing to bury a body in the town cemetery must first obtain a permit from the Town Clerk.
  
- (C) Only town residents may be buried in the cemetery.
  
- (D) **TOWN RESIDENT** is defined as a person who has resided in the town for the last six months.
  
- (E) Acceptable proof of such residency shall be a driver's license, voter registration card, utility bill, birth certificate, and/or any other document that establishes the identity and address of the applicant and/or deceased person deemed acceptable by the Town Clerk.
  
- (F) Anyone who disagrees with a decision by the Town Clerk concerning the cemetery may appeal to the Town Manager, providing they do so in writing within 72 hours of notice of the decision being appealed. Thereafter, the Town Manager will respond within 72 hours. The decision of the Town Manager is not appealable.  
(Ord. 2003-02, passed 2-13-2003) Penalty, see § 94.99

### § 94.02 ALCOHOL USE BANNED.

- No alcohol shall be possessed, drunk, consumed, sold, or transferred on the town cemetery grounds.  
(Ord. 2005-11, passed 10-27-2005) Penalty, see § 94.99

**§ 94.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Anyone found violating § 94.01 is guilty of a Class 1 Misdemeanor, the maximum penalty for which could be incarceration in jail for a period not to exceed six months and a fine not to exceed \$2,500.

(C) Anyone who violates § 94.02 shall have committed a Class 1 Misdemeanor as set forth in division **(B)** above.

(Ord. 2003-02, passed 2-13-2003; Ord. 2005-11, passed 10-27-2005)



## CHAPTER 95: PARTY PERMITS

### Section

- 95.01 Definitions
- 95.02 Permit required
- 95.03 Exemptions
- 95.04 Application
- 95.05 Fees
- 95.06 Security
- 95.07 Standards for issuance
- 95.08 Notice of denial
- 95.09 Appeal
- 95.10 Notice to other officials
- 95.11 Contents of permit
- 95.12 Duty of permittees
- 95.13 Prohibitions
- 95.14 Revocation of permit
  
- 95.99 Penalty

### ***Cross-reference:***

*Noise regulations, see § 130.07*

*Park regulations, see Ch. 97*

*Town Manager, see § 31.20*

### **§ 95.01 DEFINITIONS.**

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

***AMPLIFIED MUSIC.*** Live bands or musical performers using an amplified sound system or a "disc jockey" playing musical records and using an amplified sound system.

***HOST.*** The person who is holding the party.

***OWNER.*** The person who owns the property where the party is being held.

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**PARTY.** Any gathering of more than 30 persons for the purpose of fun, entertainment, socializing, or any other purpose.

**PARTY PERMIT.** A permit as set forth in this chapter.

**PERSON.** Any person, firm, partnership, association, corporation, company, or organization of any kind.

**REQUEST FOR A FEE OR DONATION.** A request that a person attending a party pay a stated fee or a donation in exchange for admittance.

**SIDEWALK.** Any area or way set aside or open to the general public for purposes of pedestrian traffic whether or not it is paved.

**STREET.** Any place or way set aside or open to the general public for purposes of vehicular traffic including any right-of-way, shoulder, or median, whether or not (change if to) it is paved.

**TOWN.** The Town of Guadalupe, Arizona,

**TOWN MANAGER.** The Town Manager of the Town of Guadalupe, Arizona.  
(Ord. 2003-11, passed 11-20-2003)

### § 95.02 PERMIT REQUIRED.

No person shall host or allow a party on his or her property or host a party on the property of another without first obtaining a permit from the Town Manager or his or her designee.  
(Ord, 2003-11, passed 11-20-2003) Penalty, see § 95.99

### § 95.03 EXEMPTIONS.

This chapter shall not apply to the following:

- (A) Funeral and similar observances that do not use amplified sound;
- (B) Religious observances and other gatherings solely for the purpose of public issue speech or protected by the first amendment to the United States Constitution;
- (C) Family gatherings that do not involve amplified sound; and
- (D) Gatherings of any sort that begin after 5:00 a.m. and end prior to 6:00 p.m.  
(Ord. 2003-11, passed 11-20-2003)

**§ 95.04 APPLICATION.**

(A) A person seeking a party permit shall apply for such permit on forms supplied by the Town Manager and the application shall be signed by the applicant under oath.

(B) The application shall be filed with the Town Manager not less than seven nor more than 90 days in advance of the proposed party date. The Town Manager may for good cause waive the time limits set forth herein.

(C) The application shall state:

(1) Name, address, and telephone number of the host and/or the property owner where the party is to be held;

(2) Name, address, and telephone number of the headquarters of the organization hosting the party and the name of the person to be responsible for overseeing the party;

(3) The requested date and time of the party. A party must conclude by 12:00 a.m. midnight;

(4) The hour the party will commence and end;

(5) The number of persons estimated to be in attendance;

(6) The type of party planned and the type of events planned;

(7) A description of the type of any recording or sound amplified equipment;

(8) If a band or musician will play without sound amplification, the number of band members or musicians and the type of musical instruments to be played;

(9) Whether alcoholic beverages will be served; and

(10) Any other information that the Town Manager believes would be reasonably necessary to make a decision.

(Ord. 2003-11, passed 11-20-2003)

**§ 95.05 FEES.**

(A) A non-refundable (remove application) fee of \$5 shall be paid to the town by the applicant. (remove= to cover administrative costs shall be paid to the town by the applicant.)

(B) In addition to the foregoing fee, a fee of \$45 shall be paid if the party will involve amplified music.

(Ord. 2003-11, passed 11-20-2003; Ord. 2007-04, passed 7-12-2007)

**§ 95.06 SECURITY.**

The Town Manager, in his or her discretion, will determine whether police or other security shall be required. The Manager shall base his or her decision on the size, location, and time of the party and whether alcoholic beverages will be served.

(Ord. 2003-11, passed 11-20-2003)

**§ 95.07 STANDARDS FOR ISSUANCE.**

(A) The Town Manager shall issue the permit when he or she finds:

- (1) Conduct of party will not substantially interrupt the peace and safety of the neighborhood;
- (2) Conduct of party will not endanger the lives and property of persons in the party and those that live in the neighborhood;
- (3) Adequate sanitation will be available for the expected number of party guests;
- (4) The location of the party is of a sufficient size to handle the expected number of guests and there is sufficient parking for the expected number of guests; and
- (5) Applicant has arranged for security.

(B) Other factors to be considered prior to issuing of the permit:

- (1) Whether a party permit has previously been issued for this location within the last 30 days;
- (2) Whether the applicant has previously had a party permit revoked or denied; and
- (3) No structure shall be erected on a public sidewalk, street, or public property without approval by the Town Council.

(Ord. 2003-11, passed 11-20-2003)

**§ 95.08 NOTICE OF DENIAL.**

The Town Manager shall act promptly on a timely filed application and shall advise the applicant of a denial not less than three days prior to an event

(Ord. 2003-11, passed 11-20-2003)

**§ 95.09 APPEAL.**

(A) The applicant shall have the right to appeal a negative decision by the Town Manager to the Town Council which shall hear the appeal not later than its next regularly scheduled Council meeting, providing there is time to properly notice such appeal on the Council agenda. If not, the appeal will be heard at the next regular or special meeting thereafter,

(B) If the Town Council rejects the applicant's appeal, the applicant may file a request for review with the Superior Court,  
(Ord, 2003-11, passed 11-20-2003)

**§ 95.10 NOTICE TO OTHER OFFICIALS.**

Immediately upon issuance of the permit, the Manager shall notify the following officials:

(A) Mayor and Council;

(B) Chief of Police/Sheriff's Department; and

(C) Fire Chief

(Ord, 2003-11, passed 11-20-2003)

**§ 95.11 CONTENTS OF PERMIT.**

Each party permit shall state:

(A) Starting and ending time; and

(B) Any other requirement set forth by the Town Manager,  
(Ord, 2003-11, passed 11-20-2003)

**§ 95.12 DUTY OF PERMITEES.**

(A) Permittees shall comply with all laws and permit conditions and directions,

(B) The party host shall be present at the party and shall carry the permit on his or her person,

(C) The party host shall maintain order at the party,

(D) The party host shall be responsible for any littering on the street by his or her guests going to and from the party,  
(Ord, 2003-11, passed 11-20-2003)

**§ 95.13 PROHIBITIONS.**

(A) It shall be unlawful to host a party without first obtaining a permit.

(B) It shall be unlawful for any person to attend a party for which that person knows no permit was obtained.

(C) It shall be unlawful for any person to participate at a party in such a way as to endanger the safety or property of any person.

(D) It shall be unlawful for any party host or any other person to knowingly violate any condition of a party permit.

(E) It shall be unlawful for the party host or any party attendee to allow noise or fighting or other disruptive behavior or to engage in the aforementioned conduct in such a manner as to disrupt those living in the neighborhood of the peaceful enjoyment of their property.

(F) No fee or donation request will be made to guests to attend the party unless the party has a stated charitable purpose such as a fund raiser for a charity or a needy family. Parties purely for profit shall not be allowed.

(Ord. 2003-11, passed 11-20-2003) Penalty, see § 95.99

**§ 95.14 REVOCATION OF PERMIT.**

The Town Manager or his or her designee has the authority to revoke a party permit instantly upon violation of the conditions or standards for issuance as set forth herein or when the party creates conditions that threaten to overwhelm the town's police resources and endanger the lives and property of others. The issuance of a party permit does not authorize the recipient to violate the town noise ordinance or any other portion of the town code or state law.

(Ord. 2003-11, passed 11-20-2003)

**§ 95.99 PENALTY.**

Any person violating any provision of this chapter shall be guilty of a Class 1 Misdemeanor subject to a fine not to exceed \$2,500 and imprisonment for not more than six months in jail. Probation is available for this offense.

(Ord. 2003-11, passed 11-20-2003)

## CHAPTER 96: ABANDONED VEHICLES ON PRIVATE PROPERTY

### Section

- 96.01 Definitions
- 96.02 Abandoned vehicles
- 96.03 Abatement of nuisance
  
- 96.99 Penalty

#### *Cross-reference:*

*Abandoned vehicles on public property, see § 72.06*

*Parking vehicles for sale, see § 72.08*

*Zoning, see Ch. 154*

### § 96.01 DEFINITIONS.

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

**ABANDONED.** Worn out, unused, stripped, unclaimed, scrapped, junked, or discarded.

**PRIVATE PROPERTY.** Land owned in the town by any person, firm, partnership, or corporation other than the United States or the State of Arizona.

**STORAGE.** The presence or locating of abandoned motor vehicles.

**VEHICLE.** An automobile, truck, or tractor, including trailers and farm equipment.  
(1989 Code, § 13-4-1)

### § 96.02 ABANDONED VEHICLES.

All abandoned vehicles being repaired or restored shall be kept in an enclosed area by the owner or occupant of the property upon which such vehicle is located, in such a manner as to not be visible from any point outside the property.

(1989 Code, § 13-4-2) Penalty, see § 96.99

**§ 96.03 ABATEMENT OF NUISANCE.**

(A) The owner, tenant, lessee, or occupant of any private property within the corporate limits of the town upon which storage of an abandoned vehicle is made and the owner of such abandoned motor vehicle involved in such storage shall jointly and severally be responsible for abating said nuisance.

(B) Any owner, tenant, lessee, occupant, or other person who fails, neglects, or refuses to abate such nuisance shall be notified in writing by certified mail, return receipt requested, by the Town Manager or his or her representative to abate said nuisance within 30 days from the date appearing on such written notice and that such person may appeal in writing to the Council within 30 days from the date the notice is received by him or her and prior to the date of compliance. An extension of the 30-day notice may be issued by the Manager in hardship cases not to exceed two weeks from the date of compliance.

(C) When any such owner, tenant, lessee, occupant, or other person to whom notice as provided in this section has been mailed fails, neglects, or refuses for more than 30 days from the date appearing on said notice to abate said nuisance, the Town Manager or his or her representative is hereby authorized and directed to remove said abandoned motor vehicle from said premises, and dispose of the vehicle according to the provisions of the Arizona Revised Statutes relating to abandoned vehicles, including a report to the Motor Vehicle Division of the state's Department of Transportation. The owner or person controlling such property shall have 30 days from the date of service upon him or her to appeal in writing to the Council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the Manager within such 30-day period, then the amount of the assessment as determined by the Manager shall become final and binding. If an appeal is taken, the Council shall, at its next 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.

(1989 Code, § 13-4-3)

**§ 96.99 PENALTY.**

(A) It is unlawful for any owner, tenant, lessee, occupant, or other person to fail, neglect, or refuse to abate the nuisance as provided in this chapter, and upon conviction thereof, may be punished by a fine of not more than \$500 (remove 300) or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(B) Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter.  
(1989 Code, § 13-4-6)



## CHAPTER 97: PARK REGULATIONS

### Section

- 97.01 Alcoholic beverages in parks
- 97.02 Hours of operation; loitering
- 97.03 Riding vehicles on grounds
- 97.04 Damaging facilities

- 97.99 Penalty

### ***Cross-reference:***

- General offenses, see Ch. 130
- Placement of debris, see § 92.53

### **§ 97.01 ALCOHOLIC BEVERAGES IN PARKS.**

It is unlawful for any person while on the premises of a town park to commit any of the following acts:

(A) Drink or have in his or her possession any alcoholic beverages; or

(B) Have in his or her possession any bottle, can, container, box, or other receptacle containing any alcoholic beverage which has been opened, its seal broken, or the contents of which have been partially removed.

(1989 Code, § 12-2-1) (Ord. 2003-09, passed 9-25-2003) Penalty, see § 97.99

### **§ 97.02 HOURS OF OPERATION; LOITERING.**

(A) All municipal parks, playgrounds, and recreational facilities shall be open for the use of the general public between the hours of 6:00 a.m. and 10:00 p.m.

(B) No person shall loiter upon the grounds of any municipal park, playground, recreational area, or facility without the express written permission of an authorized representative of the town between the hours of 10:00 p.m. and 6:00 a.m.

(1989 Code, § 12-2-2) Penalty, see § 97.99

**§ 97.03 RIDING VEHICLES ON GROUNDS.**

No person shall drive or ride at any time any automobile, truck, motorcycle, motor scooter, horse, or other motor vehicle or animal upon the grounds of any municipal park, playground, recreational area, or facility, except within designated parking areas located upon the premises, without the express permission of the town or an authorized representative of the town.

(1989 Code, § 12-2-3) Penalty, see§ 97.99

**§ 97.04 DAMAGING FACILITIES,**

No person shall damage or wastefully or improperly use any temporary or permanent fixture in any municipal park, playground, recreational area, or facility or cause the lighting facilities or electrical appliances to be turned on or used without the express permission of the town or an authorized representative of the town.

(1989 Code, § 12-2-4) Penalty, see§ 97.99

**§ 97.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) ~~(Remove section B~~ Upon conviction for violation of§ 97.01, the sentence to be imposed shall be a fine of not more than \$500 or imprisonment for not more than. 30 days or both.

~~(1989 Code, § 12-2-1) (Ord. 2003-09, passed 9-25-2003))~~

**TITLE XI: BUSINESS REGULATIONS**

**Chapter**

**110. PEDDLERS**

**111. BUSINESS LICENSE TAX**

**112. MASSAGE PARLORS AND BATHHOUSES**

**113. CABLE REGULATIONS**



## CHAPTER 110: PEDDLERS

### Section

- 110.01 Registration required
- 110.02 Application to Town Manager
- 110.03 Issuance of registration cards
- 110.04 Revocation of registration cards
- 110.05 Peddling without registration cards prohibited
- 110.06 Permission required for selling on streets or sidewalks
- 110.07 Signs to be observed
- 110.08 Newsboys exempt
- 110.09 Toy guns

110.99 Penalty

### ***Cross-reference:***

*Business license tax, see Ch. 111*

*Finances and taxation, see Ch. 35*

### **§ 110.01 REGISTRATION REQUIRED.**

Any person operating as a solicitor, peddler, hawker, salesperson, or vendor of goods, wares, merchandise, newspapers, magazines, or services, who goes from house to house, or to only one house in the town, shall register with the Town Manager and obtain an identification card showing such registration.

(1989 Code, § 8-1-1)

### **§ 110.02 APPLICATION TO TOWN MANAGER.**

(A) Applicants for registration under the terms of § 110.01 shall be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicant's registration card and the other to be retained by the Police Department. The Manager shall require the applicant to file his or her fingerprint identification with the Police Department.

(B) Such applicants for registration shall be required to furnish to the Police Department a complete description of the product to be sold in the town, together with information regarding sales methods to

be used and references that will enable the Town Manager to determine whether or not such applicant is qualified to receive a registration card as provided in § 110.03. Investigation by the Town Manager under the provisions of this chapter shall be completed within 15 days after the applicant has given the required information.

(1989 Code, § 8-1-2)

#### **§ 110.03 ISSUANCE OF REGISTRATION CARDS.**

Registration cards under this chapter shall be given, for a fee to be set by the Council, to all applicants who have complied with § 110.02, unless the Town Manager discovers that any such applicant is deemed not to be a proper person to be permitted to go from house to house because of any of the following reasons: he or she is associated with a company that has engaged in fraudulent dealings; or the proposed sales proposition includes some element of trickery, fraud, or deceit, in which case, in the interest of public safety and protection, the applicant shall not be registered.

(1989 Code, § 8-1-3)

#### **§ 110.04 REVOCATION OF REGISTRATION CARDS.**

Registration cards under this chapter may be revoked by the town at any time, if deemed necessary in the interest of public safety and protection.

(1989 Code, § 8-1-4)

#### **§ 110.05 PEDDLING WITHOUT REGISTRATION CARDS PROHIBITED.**

It is unlawful for any person to take part in the act of soliciting, peddling, hawking, selling, or vending of goods, wares, merchandise, newspapers, magazines, or services from house to house, or to only one house in the town, without having registered with the Town Manager and without having obtained a registration card; without having such card in possession; or failing to exhibit such card when request is made for the registration card by any resident of the town.

(1989 Code, § 8-1-5) Penalty, see § 110.99

#### **§ 110.06 PERMISSION REQUIRED FOR SELLING ON STREETS OR SIDEWALKS.**

It is unlawful for any person to erect or maintain any booth, stand, or counter on any sidewalk in the town for the purpose of barter, sale, or trade or keep or maintain upon the streets or alleys any wagon, cart, wheel, vehicle, movable booth, or stand for the purpose of barter or trade without obtaining permission of the Council.

(1989 Code, § 8-1-6) Penalty, see § 110.99

**§ 110.07 SIGNS TO BE OBSERVED.**

It is unlawful for any peddler, solicitor, or canvasser in the course of his or her business to ring the doorbell or knock at any building whereon a sign bearing the words "no peddlers, solicitors, or canvassers" or a similar message is exposed to public view.

(1989 Code, § 8-1-7) Penalty, see§ 110.99

**§ 110.08 NEWSBOYS EXEMPT.**

Newsboys are exempt from the provisions of this chapter for the sale of newspaper subscriptions.

(1989 Code, § 8-1-8)

**§ 110.09 TOY GUNS.**

(A) *Unlawful to sell or furnish.* It is unlawful for any person to sell or furnish any look-a-like toy gun to another person.

(B) *Look-a-like defined.* **A LOOK-A-LIKE TOY GUN** is any water gun, cap pistol, or other toy gun primarily designed for use by children which simulates the appearance of a real gun or firearm.

(C) *Exceptions.* A toy gun is not a look-a-like gun if it is made out of clear or brightly colored plastic or other material where it is readily apparent that it is not a real gun.

(Ord. 98-03, passed 4-26-1998) Penalty, see§ 110.99

**§ 110.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) **(1)** In addition to any other penalties prescribed by the town code, a violation of§ 110.09 could result in revocation of any registration card as set forth in § 110.04, or the revocation of any permit issued by the Council to operate a booth or stand pursuant to § 110.06.

(2) Any person found guilty of violating any provision of § 110.09 shall be guilty of a Class 1 Misdemeanor.

(Ord. 98-03, passed 4-26-1998)





## CHAPTER 111: BUSINESS LICENSE TAX

### Section

- 111.01 License required
- 111.02 Issuance of license
- 111.03 Payment
- 111.04 Posting of license
- 111.05 Exhibition of license required
- 111.06 License not transferable
- 111.07 Exemption
- 111.08 Fees
- 111.09 Transient lodging tax
- 111.10 Credit card fees

### ***Cross-reference:***

*Taxation, see TSO Table II*

### **§ 111.01 LICENSE REQUIRED.**

It is unlawful for any person to carry on any trade, calling, profession, occupation, or business specified in this chapter without first having procured a license from the town to do so and without complying with any and all regulations of such trade, calling, profession, occupation, or business as specified in this chapter.

(1989 Code, § 8-2-1) Penalty, see § 10.99

### **§ 111.02 ISSUANCE OF LICENSE.**

(A) It shall be the duty of the Clerk to prepare and issue a license under this chapter for every person, firm, company, or corporation liable to pay a license fee hereunder, and to state in each license the amount charged; the period of time covered; the name of the person, firm, or corporation for whom issued; the trade, calling, profession, occupation, or business licensed; and the location or place of business where the trade, calling, profession, occupation, or business is to be carried on.

(B) In no case shall any mistake of the Clerk in stating the amount of a license, prevent or prejudice the collection for the town of what shall be actually due from anyone carrying on a trade, calling, profession, occupation, or business, subject to license under this chapter.

(1989 Code, § 8-2-2)

**§ 111.03 PAYMENT.**

(A) All business license fees shall be paid at the office of the Town Clerk in such manner as may be specified by the Clerk. Such license fees shall be paid in the amounts and be due on the dates set forth in § 111.08.

(B) A separate license must be obtained for each branch establishment or separate place of business in which any trade, calling, profession, occupation, or business is carried on. Each license shall authorize the person obtaining such license to carry on, pursue, or conduct, only that trade, calling, profession, occupation, or business described in such license and only at the location or place of business which is indicated.

(C) Every person engaged in more than one business in the same location for which license fees are hereinafter provided shall pay the highest fee which is set up for any said businesses in which he or she is engaged at such location.

(1989 Code, § 8-2-3)

**§ 111.04 POSTING OF LICENSE.**

Every person, firm, company, or corporation having a license under the provisions of this chapter, and carrying on a trade, calling, profession, occupation, or business at a fixed place of business shall keep such license posted and exhibited, while in force, in some conspicuous part of the place of business. Every person having such a license, and not having a fixed place of business, shall carry such license with him or her at all times while carrying on that trade, calling, profession, occupation, or business for which the same was granted. Every person, firm, company, or corporation having a license under the provisions of this chapter shall produce and exhibit the same when applying for a renewal thereof, and whenever requested to do so by any police officer or by any other officer authorized to issue, inspect, or collect licenses.

(1989 Code, § 8-2-4)

**§ 111.05 EXHIBITION OF LICENSE REQUIRED.**

(A) The Chief of Police shall have and exercise the power to make arrests and to cause complaints to be filed against all persons violating the provisions of this chapter.

(B) The Chief of Police or any duly authorized official shall have the power to enter free of charge at any time any place of business for which a license is required by this chapter, and to demand the exhibition of such license for the current term from any person engaged or employed in the transaction of any such business. It is unlawful for such person to fail to exhibit such license when requested to do so.

(1989 Code, § 8-2-5) Penalty, see § 10.99

**§ 111.06 LICENSE NOT TRANSFERABLE.**

No license granted or issued under the provisions of this chapter shall be in any manner assignable or transferable to any other person, firm, company, or corporation other than is therein mentioned or named without first obtaining permission from the Council.

(1989 Code, § 8-2-6)

**§ 111.07 EXEMPTION.**

Any person wishing to sell any form of agricultural products produced by himself or herself shall be exempt from any license tax imposed hereunder for the privilege of selling such products only. Before receiving the exemption, an affidavit of the facts entitling the seller to an exemption must be filed with the Clerk.

(1989 Code, § 8-2-7)

**§ 111.08 FEES.**

*(A) License fee schedule.*

<i>Type</i>	<i>Fee</i>
Carnival	\$100 per day
Junk collectors	\$100 per quarter
Junk dealers	\$50 per quarter
Massage parlor	\$100 per month, \$75 per month per attendant
Mobile vendors (remove the word stands)	\$100 per year/ \$50 per month
Palmistry/fortune telling	\$100 per month, \$75 per month per attendant
Pawnbrokers	\$300 per year
Salesperson (door to door)	\$100 per year
Secondhand stores	\$50 per quarter
Special event (more than one day)	\$35 per event
Special event (one day)	\$25 per event
Stands (Delete this category)	\$55 per year/\$25 per quarter
All other businesses, occupations, professions, trades, or callings	\$55 per year

*(B) Liquor.*

<i>Series</i>	<i>Application</i>	<i>Issuance</i>	<i>Annual</i>
<b>Beer and wine store</b>	\$100	\$1,550	\$800
Club	\$100	\$1,150	\$800
Hotel/motel	\$100	\$2,000	\$800
In state producer	\$100	\$1,850	\$800
Microbrewery	\$100	\$600	\$800
Restaurant	\$100	\$2,000	\$800

*(C) When fee is payable.* Application and issuance fee is payable at the time of application. Issuance fee will be refundable if application is denied by the Council or State Liquor Commission. If application is approved, the annual fee is payable prior to issuance of license.

(1989 Code, § 8-2-8) (Ord. 92-07, passed 12-10-1992; Ord. 2005-10, passed 12-8-2005)

### § 111.09 TRANSIENT LODGING TAX.

(A) In addition to the tax imposed pursuant to § 35.20, there is levied and shall be collected a tax in an amount of 6% of the gross proceeds of sale or gross income from the lodging business of any hotel engaged or continuing within the town in the business of charging for lodging or lodging space to be furnished to any transient, provided that this section shall not apply to a permanent resident, room rental paid by the lessee under a valid written lease of one month or longer, and room rental paid by the United States government, its departments or agencies.

(B) The definitions, licensing, recordkeeping, and administration of the tax shall conform as nearly as possible to the same specified in the tax code adopted by § 35.20; provided that payment shall be made directly to the town.

(1989 Code, § 8-4) (Ord. 2008-03, passed 6-28-2007)

### § 111.10 CREDIT CARD FEES.

Should the Town Manager decide to establish a program whereby the public would be allowed to pay for certain fees and costs with the use of a credit card or a debit card, any processing or use fee charged to the town by the credit card or debit card company shall be added to the amount of the fee or cost being charged. This would also apply to the court should the judge decide to implement such a program for fines, fees, and restitution.

(Ord. 2005-02, passed 6-9-2005)

## CHAPTER 112: MASSAGE PARLORS AND BATHHOUSES

### Section

- 112.01 Definitions
- 112.02 License required
- 112.03 License exceptions
- 112.04 License application
- 112.05 License fee
- 112.06 Prerequisites to issuance of license
- 112.07 Revocation of license
- 112.08 Register of employees; notice of employment of new attendant
- 112.09 Certain services and operations prohibited
- 112.10 Right of entry and inspection

### ***Cross-reference:***

*Business license tax, see Ch. 111*

*Finances and taxation, see Ch. 35*

*Police Department, see Ch. 33*

### § 112.01 DEFINITIONS.

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

***ATTENDANT.*** The employee who administers any of the services of a bathhouse or massage parlor within the bath or massage rooms.

***BATHHOUSE.*** An establishment in which is carried on the business of providing baths and other forms of hydrotherapy; provided, that the business of providing sauna baths or shower facilities for patrons or customers shall not be considered within the above definition.

***MASSAGE PARLOR.*** An establishment in which is carried on the business of providing any service of manual massage of the human body by an operator or attendant; provided, that the business of a physical therapist or the business of providing vibrating, rotary, or oscillating electrical or mechanical massage or body building equipment for the use and benefit of patrons or customers or the use by such customers of gymnasium type, body building, or reduction equipment made available by the establishment for the use of such customers shall not be considered within this definition.

(1989 Code, § 8-3-1)

**§ 112.02 LICENSE REQUIRED.**

(A) No person shall operate any bathhouse or massage parlor without first securing and having in effect a license so to do issued by the Town Clerk or his or her authorized agent.

(B) No person shall perform the services of an attendant in a bathhouse or massage parlor without first securing and having in effect a license so to do issued by the Town Clerk or his or her authorized agent.

(C) No operator of a bathhouse or massage parlor shall permit any person to act as an attendant unless such person is a duly licensed attendant.

(1989 Code, § 8-3-2) Penalty, see § 10.99

**§ 112.03 LICENSE EXCEPTIONS.**

No license shall be required under this chapter for naturopaths, chiropractors, osteopathic physicians, or medical doctors who hold state licenses, nor shall the attendants working under the direct supervision and in the same establishment as such excepted individuals be required to hold a license under this chapter.

(1989 Code, § 8-3-3)

**§ 112.04 LICENSE APPLICATION.**

Each licensee under this chapter shall apply for a license annually by application as if for an original license. There shall be no automatic renewal, and authorization by the Town Clerk shall be required as in the case of an original application.

(1989 Code, § 8-3-4)

**§ 112.05 LICENSE FEE.**

The license fee for any operator of a bathhouse or massage parlor shall be \$100 per month, and the license fee for an attendant in either establishment shall be \$75 per month. Such fee in each instance shall be paid upon application for the license, and, if for any reason a license is not issued, such fee shall be deemed an application fee and not returnable to the applicant.

(1989 Code, § 8-3-5)

**§ 112.06 PREREQUISITES TO ISSUANCE OF LICENSE.**

(A) No license for the operation of a bathhouse or massage parlor shall be issued by the Town Clerk or his or her authorized agent unless and until a written authorization to so issue has been received from

the Town Manager. Before authorizing such license, the Town Manager shall first determine the following.

- (1) The applicant has been a resident of the state at least 90 days and is over the age of 21 years.
- (2) The applicant, including each member of a partnership if the applicant is a partnership, and including the actual manager of the business, if the applicant is a corporation, is of good moral character.
- (3) The applicant, if such applicant performs the duties of an attendant or manages or supervises the attendants, is a graduate of a recognized school of hydrotherapy or physical therapy; or in lieu thereof, that the applicant proves by at least three references from reliable sources, capable of judging ability, that he or she is competent to perform the duties for which the license is issued.
- (4) The applicant, including each of the persons mentioned in division (A)(2) above, has provided a recent front view photograph of his or her face and shoulders and in addition has his or her fingerprints on file with the Town Clerk.
- (5) The applicant, including each of the persons mentioned in division (A)(2) above, has first been examined by and been issued a health certificate by the Health Department.
- (6) The applicant, including each of the persons mentioned in division (A)(2) above, has not previously been convicted of any violation of this chapter.

(B) No license for the occupation of attendant shall be issued by the Town Clerk or his or her authorized agent until a written authorization to issue has been received from the Town Manager. Before authorizing such a license, the Town Manager shall first determine the following.

- (1) The applicant is of good moral character.
- (2) The applicant has provided a recent front view photograph of his or her face and shoulders and in addition has had his or her fingerprints on file with the Police Department.
- (3) The applicant is over 21 years of age.
- (4) The applicant has been examined by and been issued a health certificate by the Health Department.
- (5) The applicant is a graduate of a recognized school of hydrotherapy or physical therapy; or in lieu thereof that the applicant proves by at least three references from reliable sources, capable of judging ability, that he or she is competent to perform the duties for which the license is issued.
- (6) The applicant has not previously been convicted of any violations of this chapter.

**§ 112.07 REVOCATION OF LICENSE.**

(A) Whenever the Town Manager believes that any licensed operator or attendant has violated any of the provisions of this chapter or is not qualified under this chapter to hold a license, he or she may order a hearing before a board composed of the investigating officer, the Town Manager and the licensing official. Such hearing shall be held at a reasonable time and place designated by the Town Manager in written notice to the licensee. Following such hearing, the Town Manager shall reduce the findings of fact to writing, and, if he or she determines that the licensee has violated any of the provisions of this chapter, or is unqualified under the provisions of this chapter to hold the license in effect, he or she shall transmit a copy of such finding to the Town Clerk or his or her authorized agent recommending revocation and the Town Clerk or his or her authorized agent shall immediately revoke such license.

(B) Should the Town Manager, following issuance of a license of either type provided for in this chapter, learn from a reliable source that the applicant, at any time, has been convicted of having committed a lewd or indecent act, he or she shall immediately notify the Town Clerk or his or her authorized agent who shall forthwith cancel the license.

(C) A conviction for violation of any of the provisions of this chapter shall constitute sufficient cause for immediate revocation of the license of such licensee, upon recommendation by the Town Manager.

(1989 Code, § 8-3-7)

**§ 112.08 REGISTER OF EMPLOYEES; NOTICE OF EMPLOYMENT OF NEW ATTENDANT.**

The operator of each bathhouse or massage parlor shall keep and maintain up-to-date a register of all employees, including, in addition to the employee's name, his or her address, age, sex, race, duties, and such other information as the Town Manager may reasonably require. Upon hiring any attendant, the operator shall immediately notify the Town Manager in writing and shall include in such notice the same information required to be in the register.

(1989 Code, § 8-3-8)

**§ 112.09 CERTAIN SERVICES AND OPERATIONS PROHIBITED.**

No bathhouse or massage parlor shall:

- (A) Provide treatment at the same time to persons of the opposite sex in the same room or quarters;
- (B) Provide to any person at any time services which the health officer may reasonably consider to be clearly dangerous to health or safety;
- (C) Provide to any person at any time any service which is contrary to commonly accepted standards of morality; or



(D) Remain open or provide services at any time between the hours of 12:00 midnight and 6:00 a.m. (1989 Code, § 8-3-9) Penalty, see § 10.99

**§ 112.10 RIGHT OF ENTRY AND INSPECTION.**

Any bathhouse or massage parlor and its equipment, records, and methods of operation shall be open at reasonable hours to inspection by representatives of the Police Department or police officials, Building Inspections Department, or the health officer. The health officer and the Town Manager shall assign qualified personnel to make regular inspections of licensees, and a report of such inspections shall be made to the Town Manager in writing. No inspector shall enter a room or immediate quarters wherein a person of the sex opposite to that of the inspector is undergoing treatment or receiving service. (1989 Code, §8-3-10)



## CHAPTER 113: CABLE REGULATIONS

### Section

#### *General Provisions*

- 113.01 Definitions
- 113.02 Nondiscrimination

#### *Procedures for Granting, Renewing, Transferring, and Acquiring by Town of Cable Television Licenses*

- 113.015 License to operate; required
- 113.016 Failure to have license, violation
- 113.017 Authorization to engage in business
- 113.018 Limitations of license
- 113.019 Acquisition by town
- 113.020 Rights reserved to the town
- 113.021 Initial license; applications
- 113.022 Fees; application of initial license
- 113.023 Selection of licensee; initial license
- 113.024 Duration of license
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#### *Initial and Renewal License Requirements*

- 113.040 Effect of award of license
- 113.041 Payment of license fee
- 113.042 Use of telephone facilities
- 113.043 Required services and facilities
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**Guadalupe - Business Regulations*****Construction Requirements***

- 113.060 Permits, installation, and service
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- 113.080 Location of property of licensee
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- 113.125 Reports
- 113.126 Inspection of property and records
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- 113.128 Letter of credit
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- 113.133 Continuity of service mandatory

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113.135	Waivers
113.136	Validity of license
113.137	Construction bond
113.138	Miscellaneous provisions
113.139	Force majeure
113.999	Penalty

### ***GENERAL PROVISIONS***

#### **§ 113.001 DEFINITIONS.**

For the purposes of this chapter, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory, not merely directory. All references to days shall mean calendar days, unless otherwise specified. References to "this code" are to this cable communications chapter.

***ACCESS CHANNEL.*** One or more channels dedicated in whole or in part for local non-commercial programming that are not originated by a cable company; provided that such access programming shall not include:

- (1) The retransmission of local television broadcast signals; or
- (2) Programming produced by persons who are affiliated with the cable company under the provisions of § 612 of the Cable Act.

***AFFILIATE.*** Any person who owns or controls, is owned by or controlled by, or is under common ownership or control with a licensee.

***APPLICANT.*** A person who applies for a license to provide cable service in the town.

***APPLICATION.*** Refers to the offer by a qualified applicant to furnish and provide a cable system and cable services to residents, businesses, industries, and institutions within the town in accordance with the town's specifications.

***BASIC SERVICE.*** Any service tier that includes the retransmission of local television broadcast signals. Each such tier shall include all access channels, as defined in § 611 of the Cable Act.

**CABLE ACT.** The Cable Communications Policy Act of 1984, as amended, including the Telecommunications Act of 1996.

**CABLE SERVICES or CABLE SERVICE.**

- (1) The one-way transmission to subscribers of video programming and other programming services; and
- (2) Subscriber interaction, if any, that is required for the selection or use of such programming and programming services.

**CABLE SYSTEM.**

(1) A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable services, that includes video programming, and that is provided to multiple subscribers within the town, but such term does not include:

- (a) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (b) A facility that serves subscribers without using any public right-of-way;
- (c) 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, except that such facility shall be considered a **CABLE SYSTEM** to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- (d) An open video system that complies with 47 U.S.C. § 653; or
- (e) Any facility of an electric utility used solely for operating its electric utility systems.

(2) Any reference to licensee's cable system refers to the **CABLE SYSTEM** as a whole or any part thereof.

**COMPLETION OF CONSTRUCTION or COMPLETE SYSTEM CONSTRUCTION.** Satisfactorily complete and fully activated. In each instance, these terms shall mean that, for aerial construction, strand has been put up and all necessary cable has been lashed, for underground construction, all cable has been laid and trenches refilled, all road surfaces restored to the town's satisfaction, and, except as prevented by weather conditions or delayed because of seasons, landscaping restored; that all amplifier housings and modules have been installed, that power supplies have been installed, that construction of the headends or hubs has been completed, and that all necessary processing equipment has been installed; and that any and all other construction necessary for the cable system to be ready to deliver cable service to subscribers has been completed with no unresolved violations of this chapter or the license. Final balancing shall have been conducted on each otherwise completed segment of the cable system before

direct marketing of that segment begins. It is expected that segments of less than the entire cable system will be activated and final balanced when completed. Construction of any segment or of the entire cable system will not be considered complete until final balance has been conducted on such segment (or in the case of the entire cable system, until final balancing and proof of performance tests have been conducted on all segments of the cable system.) The term **COMPLETION OF CONSTRUCTION** does not include marketing and installation of subscriber service.

**EDUCATION ACCESS CHANNEL.** Any channel or bandwidth on a cable system set aside by a licensee for educational use.

**FCC.** The Federal Communications Commission, or a designated representative.

**GOVERNMENT ACCESS CHANNEL.** Any channel or bandwidth on a cable system set aside by a licensee for governmental use.

**GROSS REVENUES.**

(1) All cash, credits, property of any kind or nature, or other consideration, less related bad debts up to a maximum of 1.5% annually of such cash, credits, and property, received directly or indirectly by a licensee, its affiliates, subsidiaries, parent, and any person, firm, or corporation in which a licensee has a financial interest or that has a financial interest in a licensee, arising from or attributable to the licensee's operation of its cable system to provide cable services (as defined from time to time by applicable federal law) within the town, including, but not limited to:

- (a) Revenue from all charges for services provided to subscribers;
- (b) Revenue from all charges for the insertion of commercial advertising upon the cable system;
- (c) Revenue from all charges for the leased use of studios;
- (d) Revenue from all charges for the use of or lease of leased access channels or band width;
- (e) Revenue from the production or transmission over the cable system of video programming by licensee including programming produced by its mobile facilities;
- (f) Revenue from all charges for the installation, removal, connection, and reinstatement of equipment necessary for a subscriber to receive cable services;
- (g) Revenue from the sale, exchange, use, or cablecast of any programming developed for community use or institutional users; and
- (h) Any other income derived from the cable system.

(2) **GROSS REVENUES** does not include taxes or fees (except the license fee) collected by licensee on behalf of any governmental authority; any increase in the value of stock, security, or asset; any surcharges for underground conversion of cable plant costs; any increase in the value of any stock, security, or asset; the value of complimentary service provided to licensee's employees and as required by this chapter or any license; and dividends or other distributions made in respect of any stock or securities; or value received by a licensee or any of its affiliates through cooperative advertising.

(3) **GROSS REVENUES** shall not include cash, credit, property of any kind or nature, or other consideration received by a licensee's affiliates or any person, firm, or corporation ("related person") in which a licensee has a financial interest or that has financial interest in a licensee for any sales of advertising on the cable system, services to provide programming on the cable system, production services, and/or telecommunication services that are cable services when such services are provided by a related person that has all the following characteristics: the related person is a separate legal entity, with separate employees, with separate financial records (that may be part of consolidated financial reporting records), and a separate mission; it makes payments to licensee that meet market standards for the services and industries involved, even if it does not offer and provide its services to persons other than licensee in the same industry as licensee; and it was established for valid business purposes and not with the intent and purpose of circumventing payment of license fees on gross revenues. Nothing contained in this exclusion from gross revenues shall be interpreted to exclude from gross revenues such cash, credit, property of any kind or nature, or other consideration that would be considered the licensee's **GROSS REVENUES** derived from the operation of the cable system to provide cable services under the Cable Act. Except for **GROSS REVENUE** from such sales of advertising on the cable system, services to provide programming on the cable system, production services, or telecommunication services that are cable services received by such related person, this division (3) shall not exclude from **GROSS REVENUES** any source of gross revenues that an existing licensee itself is receiving at the time it is granted a license under this chapter.

(4) When a licensee (or an affiliate) holds one or more other cable television licenses in the county, and receives and allocates **GROSS REVENUES** from divisions (1)(b), (1)(d), and (1)(e) above, then **GROSS REVENUES** derived from divisions (1)(b), (1)(d), and (1)(e) above, shall be allocated pro rata to the town based on the ratio of the number of subscribers of licensee (or an affiliate), in the town to the number of subscribers of licensee (or an affiliate) in all the jurisdictions in the county, in that licensee (or an affiliate) holds a cable license. If a licensee does not allocate its gross revenues derived from divisions (1)(b), (1)(d), and (1)(e) from such other jurisdiction(s), then the number of subscribers in such jurisdiction(s) shall not be included in the total number of subscribers in all other jurisdictions.

**INITIAL ACTIVATION OF CABLE SERVICE.** With respect to a particular segment (as defined in any license issued hereunder), or with respect to a group of segments or the entire cable system, as the case may be, that all proposed cable services and cable system capabilities as stated in the license are available and/or in place, construction has been completed, and the completed segment or segments in question or the entire cable system, as the case may be, have been activated.

**INITIAL LICENSE.** A license sought by, or granted to, a person who does not hold a license.



**INTERACTIVE ON-DEMAND SERVICES.** A service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

**LICENSE.** Any authorization granted under this chapter in terms of a privilege, permit, license, or otherwise to construct, operate, and maintain a cable system in the town, and to provide non-cable communication services including initial licenses and renewal licenses. Any such authorization, in whatever term granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within the town in accordance with the town's tax code or Chapter 111 (remove35) of the town code. #39

**LICENSE AREA.** The current incorporated boundaries of the town and any future annexed area, unless the term of a license provides otherwise.

**LICENSEE.** The person or entity to which a license hereafter is granted for continuation, operation, maintenance, or reconstruction of a cable system.

**UCENSOR.** The town as represented by the Town Council or Town Manager, or their designee.

**MULTIPLE DWELLING UNITS (MDU).** Any adjacent building(s) such as apartments under common ownership containing more than four dwelling units used as living quarters.

**NORMAL BUSINESS HOURS.** Those hours during which most similar businesses in the community are open to serve customers. In all cases, **NORMAL BUSINESS HOURS** must include some evening hours at least one night per week and/or some weekend hours.

**NORMAL OPERATING CONDITIONS.**

(1) Those service conditions that are within the control of the licensee. Those conditions that are not within the control of the licensee include, but are not limited to, natural disasters, civil disturbances, utility company power outages, telephone network outages, and severe or unusual weather conditions.

(2) Those conditions that are ordinarily within the control of the licensee 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.

**OUTAGE.** Exist whenever licensee's cable system experiences three subscriber complaints within any 60-minute period of "no picture" within the same quarter section.

**PROPOSAL.** A response by a qualified cable company in accordance with town specifications to provide cable services to residents, businesses, industries, and institutions within the town.

**RENEWAL LICENSE.** A license sought by, or granted to, a person currently holding a valid license to provide cable services in the town.

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**SCHOOL.** Public educational institutions, including primary and secondary schools, colleges and universities, and charter schools that have 150 or more students between the ages of five and 18.

**SERVICE CALL.** Result when service problems occur relating to:

- (1) Any "no picture" complaint;
- (2) A degraded signal or picture on one or more channels;
- (3) Property damage by licensee's employees or authorized contractors; or
- (4) In-house cable equipment problems.

**SERVICE INTERRUPTION.** Exist when a subscriber loses the signal on all channels.

**STANDARD DROP.**

(1) A cable connection that requires no more than a 225-foot drop measured from the nearest point of a subscriber's home or place of business to the nearest existing technically feasible point from that an individual subscriber can be connected to the cable system; involves only one outlet and standard materials; and does not involve a wall fish.

(2) In addition, a **STANDARD DROP** shall exclude custom installation work, including specific subscriber requested work that requires non-standard inventory or cable routing requiring construction methods exceeding reasonable underground or aerial work.

**STREET or PUBLIC STREET.** Only a street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, right-of-way, or drive that is owned by a public entity in fee or as to which a public easement has been dedicated for street purposes, and with respect to which, and to the extent that, town has a right to grant the use of the surface of, and space above and below in connection with a license for a cable system, or other compatible uses.

**SUBSCRIBER.** Any person, firm, corporation, or entity receiving for any purpose the cable service of a licensee's cable system.

**TOWN.** The Town of Guadalupe, a municipal corporation of the State of Arizona, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.

**TOWN COUNCIL.** The present governing body of the town or any future council constituting the legislative body of the town.

**TOWN MANAGER.** The Town Manager or the Town Manager's designee.

**USER.** A party utilizing a cable system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt in a subscriber capacity.

***WILL BE AVAILABLE, WILL BE EQUIPPED, WILL USE, WILL BE DESIGNED, WILL PERFORM, WILL BE UTILIZED, WILL PERMIT, WILL ALLOW, WILL BE ACTIVATED, WILL BE INITIALLY CONNECTED, WILL BE CAPABLE, WILL PROVIDE, WILL INCLUDE, WILL EMPLOY, WILL BE ESTABLISHED, WILL BE ABLE, WILL BE IMPLEMENTED, WILL BE DELIVERED, WILL UTILIZE, .AND OTHER SIMILAR USES OF TERMS IN A LICENSEE'S PROPOSAL DENOTING THE ACTIVATION OF CABLE SERVICE.*** Delivery or accomplishment at a date no later than the initial activation of cable service (as defined in this section), unless otherwise expressly and clearly stated or qualified in the licensee's proposal to mean a more specific or different time.

(Ord. 2003-07, passed 9-25-2003)

### **§ 113.002 NONDISCRIMINATION.**

(A) The licensee shall not deny service, access, or otherwise discriminate against subscribers, users, or any resident of the town.

(B) The licensee shall conduct a continuing review of employment structures and employment practices and adopt positive recruitment policies, on-the-job training, job design, and other measures needed to assure genuine equality of opportunity.

(C) The licensee shall regularly recruit through schools and colleges with high minority enrollments; shall maintain contact with media advocacy groups, minority and human relations organizations, leaders, spokespersons, and other appropriate recruitment sources within the county to make it known that qualifies minority persons are being sought for consideration when the licensee is hiring.

(D) The licensee is encouraged to hire from within the town whenever possible.

(Ord. 89-05, passed - -)

### ***PROCEDURES FOR GRANTING, RENEWING, TRANSFERRING, AND ACQUIRING BY TOWN OF CABLE TELEVISION UCENSES***

### **§ 113.015 LICENSE TO OPERATE; REQUIRED.**

A non-exclusive license to construct, operate, and maintain a cable system within all or any portion of the town is required of anyone desiring to provide cable service in the town. A license may be granted by the Town Council to any person, whether operating under an existing license or not, who offers to furnish and provide such cable service under and pursuant to the terms and provisions of *this* chapter.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.016 FAILURE TO HAVE LICENSE, VIOLATION.**

(A) From and after the effective date of this chapter, it shall be unlawful for any person to establish, operate, or to carry on the business of distributing to any person in this town any television signals or radio signals by means of a cable system unless a license therefor has first been obtained pursuant to the provisions of this chapter and unless such license is in full force and effect.

(B) From and after the effective date of this chapter, it shall be unlawful for any person to construct, install, or maintain within any public street in the town, within any other public property of the town, or within any privately-owned area within the town that has not yet become a public street but is designated or delineated as a proposed public street on any preliminary subdivision map approved by the town, any equipment or facilities for distributing any television signals or radio signals through a cable system, unless a license authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this chapter and unless such license is in full force and effect.

(C) It shall be unlawful for any person to make any unauthorized connections, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a licensed cable system within this town for the purpose of enabling himself or herself or others to receive any television signal, radio signal, picture, program, sound, or any other signals transmitted on the cable system, without the permission of the licensee.

(D) It shall be unlawful for any person, without the consent of the licensee, to willfully tamper with, remove, or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs, sounds, or any other signals transmitted on the cable system.  
(Ord. 2003-07, passed 9-25-2003) Penalty, see§ 113.999

**§ 113.017 AUTHORIZATION TO ENGAGE IN BUSINESS.**

Any license granted pursuant to the provisions of this chapter shall authorize and permit the licensee to engage in the business of operating and providing a cable system in the town, and for that purpose to erect, install, solicit, construct, repair, replace, reconstruct, maintain, and retain in, on, over, under, upon, across, and along any street, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the cable system; and in addition, so to use, operate, and provide similar facilities or properties rented 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.  
(Ord. 2003-07, passed 9-25-2003)

**§ 113.018 LIMITATIONS OF LICENSE.**

(A) Any license granted under this chapter shall be nonexclusive.

(B) Any privilege claimed under any license by the licensee in any public street or other public property shall be subordinate to any prior or subsequent lawful occupancy or use thereof by the town or any other governmental entity and shall be subordinate to any prior easements therein; provided, however, that nothing shall extinguish or otherwise interfere with property rights established independently of any license issued pursuant to this chapter.

(C) Any right or power in, or duty imposed upon, any officer, employee, department, or board of the town shall be subject to transfer by the town to any other officer, employee, department, or board of the town.

(D) A licensee shall be subject to all requirements of town's rules, regulations, and specifications heretofore or hereafter enacted or established and shall comply with all applicable state and federal laws and regulations heretofore enacted or established. There is hereby reserved to the town the power to amend any subchapter of this chapter so as to require additional or greater standards of construction, operation, maintenance, or otherwise pursuant to the town's lawful police powers or as provided in the license.

(E) Any license granted shall not relieve the licensee of any obligation involved in obtaining pole space from any department of the town, utility company, or from others lawfully maintaining poles in streets.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.019 ACQUISITION BY TOWN.**

(A) In accordance with § 627 of the Cable Act, if a renewal of a license held by a licensee is denied and the town acquires ownership of the cable system or effects a transfer of ownership of a cable system to another person, any such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the license itself. If a license held by a licensee is revoked for cause and the town acquires ownership of the cable system or effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at an equitable price. Under the term "equitable price", such matters as the harm to the community resulting from the licensee's breach of the license may be considered in determining the appropriate price. No payment shall be made by the town to the licensee that would include a value attributed to the license itself.

(B) The fair market value of the cable system shall be determined as follows.

(1) The fair market value of the cable system shall be determined by an appraisal committee consisting of three appraisers nationally recognized by training and experience as qualified to appraise the fair market value of a large, urban cable system. No appraiser shall have previously acted in any capacity for either the town or licensee. The appraisal committee shall function as an arbitration panel and shall conduct its appraisal process in the county, in accordance with the Center for Public Resources Rules for Non-Administered Arbitration of Business Disputes (the "rules"), supplemented by the following procedures that shall control to the extent they conflict with the rules.

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(2) Each party shall appoint an appraiser within 30 days after the town sends notice initiating appraisal proceedings. The two appraisers shall select a third appraiser within 30 days after selection of the second appraiser. If the two appraisers are unable to agree on the appointment of a third appraiser within such 30-day period, either the town or the licensee may petition the presiding Civil Judge of the County Superior Court, acting in his or her individual capacity, for the selection of a third appraiser.

(3) Each party shall bear the cost of its own appraiser and one-half of the cost of appointing the third appraiser, of paying the third appraiser's fee, and of any reasonable expenses incurred by the appraisers in order to carry out the appraisal process.

(4) Within 30 days after selection of the third appraiser, the appraisers shall meet for the purpose of determining the manner in which the parties may present by evidence that may bear upon the appraisal. Within 90 days after such meeting, the appraiser shall receive and consider such evidence and enter an award determining the fair market value of the cable system consistent with the requirements of this section. Such award shall be final and binding upon the parties, and judgment upon the award rendered may be entered by any court having jurisdiction thereof.

(C) Upon the termination of a license and the rights granted thereunder, whether by expiration or forfeiture, the town Council may direct and require the licensee as provided in§ 113.082 to remove its wires, cables, fixtures, and accessories and appurtenances from the streets. If directed, the town shall make a claim on the letter of credit as prescribed in§ 113.128.  
(Ord. 2003-07, passed 9-25-2003)

**§ 113.020 RIGHTS RESERVED TO THE TOWN.**

(A) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the town to acquire the property of the licensee, by purchase, at fair market value, which shall not include any amount for the license itself or for any of the rights or privileges granted. And nothing herein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the town's right of eminent domain at fair market value.

(B) There is hereby reserved to the town every right and power that is required to be herein reserved or provided by any provision of the charter or code, and a licensee shall comply with any action or requirements of the town in its exercise of such rights or power heretofore or hereafter enacted or established.

(C) Neither the granting of any license hereunder nor any of the provisions contained herein shall be construed to prevent the town from granting any identical or similar license to any other person, firm, or corporation within the town.

(D) Neither the granting of any license nor the enactment of any provision in this chapter shall constitute a waiver or bar to the exercise of any governmental right or power of the town, now existing or hereafter granted.

(E) The Town Council may do all things that are necessary and convenient in the exercise of its jurisdiction under this chapter and may, through the Town Manager or through its own action, adjust, settle, compromise, or otherwise resolve, pursuant to §§ 113.130 and 113.131, any controversy or charge arising from the operations of any licensee under this chapter.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.021 INITIAL LICENSE; APPLICATIONS.**

(A) Each application for an initial license to construct, operate, or maintain any cable system in the town shall be filed with the office of the Town Clerk and in the form of a proposal for initial license prescribed by the town.

(B) Said forms shall require, but shall not be limited to the following information:

(1) The name, address, and telephone number of the applicant;

(2) A detailed statement of the corporation or business entity organization of the applicant, including, but not limited to, the following and to whatever extent required by the town:

(a) The names and residence and business addresses of all officers, directors, and associates of the applicant;

(b) The names and residence and business addresses of all officers, persons, and entities having a 1 % or larger share of the ownership of the applicant and the respective ownership share of each such person or entity; and

(c) The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant, in whole or in part, or owned in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including, but not limited to, cable systems owned or controlled by the applicant and its parent and subsidiary and the areas served thereby.

(3) A detailed and complete financial statement of the applicant, certified by an independent certified public accountant, for the fiscal year next preceding the date of the application hereunder, and a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Town Council, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed cable system in the town, or a statement from an independent certified public accountant, certifying that the applicant has available sufficient free, net, and uncommitted cash resources to construct and operate the proposed cable system in this town;

(4) A detailed financial plan (pro forma) describing for each year of the initial license, projected number of subscribers, rates, all revenues, operating expenses, capital expenditures,

depreciation schedules, income statements, and a sources and uses of funds statement. All information is to be presented in the format approved by the town;

(5) A statement identifying, by place and date, any other cable system license(s) awarded to the applicant and its parent or subsidiary; the status of said license(s) with respect to completion thereof; the total cost of completion of such licensed cable system(s); and the amount of applicant's and its parent's or subsidiary's resources committed thereto; and

(6) A detailed description of the proposed plan of operation of the applicant that shall include, but not be limited to, the following:

(a) A detailed map indicating all areas proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be serviced;

(b) A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and cable service charges;

(c) A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant;

(d) A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber;

(e) A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation that materially relate or pertain to or depend upon the application and the granting of the initial license;

(f) A copy of any agreement covering the license area, if existing between the applicant and the local telephone and/or electric utilities providing for the use of any facilities of the utility, including, but not limited to poles, lines, or conduits; and

(g) Any other details, statements, information, or references pertinent to the subject matter of such application that shall be required or requested by the Town Council, or by any other provision of law.

(Ord. 2003-07, passed 9-25-2003)

### **§ 113.022 FEES; APPLICATION OF INITIAL LICENSE.**

(A) *Amount.* Notwithstanding any other requirement of this chapter, each applicant for an initial license must furnish with its proposal a nonrefundable filing fee in the amount of \$15,000, by cash,



certified or cashier's check, wire transfer, or in any other manner acceptable to the Town Manager made payable to the town. No proposal for an initial license shall be considered without receipt of said fee.

(B) *Deposit and use.* All fees received will be deposited to an account of the town and will serve to recover actual expenses incurred by the town in the preparation and granting of initial licenses and regulation of licenses pursuant to this chapter.

(C) *Additional fee.* Any licensee under an initial license, upon acceptance of such initial license, shall reimburse all additional expenses, including, but not limited to, any and all administrative, engineering, publication, or legal costs and consultants' expenses incurred in connection with the processing, evaluation, and preparation of documents relating to the initial license. The town shall document all such expenses by invoice. If expenses exceed the total amount of filing fees collected from the applicant(s), the licensee shall pay to the town the excess amount within 30 days of demand by the town. All unpaid amounts at the end of 30 days shall accrue interest at the rate of 1.5 % per month. (Ord. 2003-07, passed 9-25-2003)

**§ 113.023 SELECTION OF LICENSEE; INITIAL LICENSE.**

(A) *Solicitation of proposals.* The town may, by advertisement or any other means, solicit and call for proposals for initial licenses, and may determine and fix any date upon or after which the same shall be received by the town, or the date before which the same must be received, or the date after which the same shall not be received and may make any other determinations and specify any other times, terms, conditions, or limitations respecting the soliciting, calling for, making, and receiving of such proposals. The terms and conditions for proposals shall be described in a document called "request for proposals" .

(B) *Unsolicited proposals.* The town, upon receipt of an unsolicited proposal for initial license, may by advertising or other means solicit and call for competing proposals pursuant to division (A) above, or may, in its sole discretion, reject such proposal as untimely.

(C) *Compliance with town requirements.* A person, firm, or corporation submitting a proposal for initial license to operate a cable system in response to the town's request for proposals shall provide all information required by this chapter and all other information requested by town's request for proposals or otherwise required by the town. Each proposal shall be responsive to the questions soliciting the information, and shall completely, accurately, and materially supply all of the information so solicited. Any misrepresentation, failure, neglect, or refusal to provide any of such information may, at the option of the town, render a proposal invalid. This requested information must be complete and verified as true by the applicant.

(D) *Property of town.* All proposals received by the town from an applicant shall become the sole property of the town.

(E) *Applicant responsibility.* Before submitting a proposal, each applicant shall be solely responsible for and must:

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(1) Examine all regulatory chapters and the request for proposals documents thoroughly;

(2) Be familiar with local conditions that may in any manner affect performance under the license, including, but in no event limited to, community and institutional telecommunication needs, relevant demographics, topographies, pole attachment policies of appropriate utility authorities, undergrounding, and subscriber desires;

(3) Be familiar with all applicable federal, state, and local laws, chapters, rules, and regulations affecting performance under the license; and

(4) Carefully correlate all observations with the requirements of this chapter and the request for proposals documents.

*(F) Referral to Town Manager.*

(1) Upon receipt of any proposal for initial license, the Town Manager shall prepare or cause to be prepared a report, including recommendations respecting such proposal, and cause the same to be completed and filed with the town. The town will evaluate all proposals that are submitted.

(2) At the discretion of the Town Council, an applicant that has met the town's qualifications in the request for proposals and has submitted a proposal on the required form will be offered the opportunity to make a formal presentation to the Town Council in support of its proposal.

*(G) Investigations.* The town may make such investigations as it deems necessary to determine the ability of the applicant to perform under the initial license, and the applicant shall furnish to the town all such information and data for this purpose as the town may request.

*(H) Rejection.* The town may reject any and all proposals from whatever source and whenever received and the town also reserves the right to waive all formalities where the best interest of the town may be served, and may, if it so desires, request new or additional proposals.

*(I) Public comment.* If, upon receiving the Town Manager's report, the Town Council shall determine to further consider the proposals, the Town Clerk shall set a public hearing for the consideration of proposals; fixing and setting forth a day, hour, and place certain when and where any persons having any interest therein or who wish to file objections may file written comments and appear before the Town Council and be heard, and directing the Town Clerk to publish notice of such hearing at least once within ten days of the passage thereof in the newspaper of general circulation within the town.

*(J) Consideration.* In making any determination hereunder as to any proposal for initial license, the town may consider any and all factors relevant to significant interests of the community in cable television including, but not limited to, the quality of the cable services proposed, areas to be served, rates to subscriber, income to the town, experience, character, background, and financial responsibility of any applicant, and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements, to meet all requirements set forth

in this chapter, and to abide by all policy conditions, license limitations, and requirements, and all other matters deemed pertinent by the town for safeguarding the interests of the town and the public.

(K) *Determination.* At the time set for the hearing on proposals for an initial license, or at any adjournment thereof, the Town Council shall proceed to hear all comments. Thereafter, the Town Council shall make one of the following determinations:

(1) That such proposal be denied, which determination shall be final and conclusive; or

(2) That such initial license be granted and the terms and conditions thereof. No provision of this chapter shall be deemed or construed so as to require the granting of an initial license.

(L) *Additional information.* The town may at any time demand and applicant(s) shall provide such supplementary, additional, or other information as the town may deem reasonably necessary to determine whether the requested initial license should be granted.

(M) *Awards based on public record.* It is the intention of the town to award an initial license solely on the basis of the public record. To this end, communication with the Town Council by those wishing to submit proposals for an initial license shall be limited to public sessions. Requests for information should be directed to the office of the Town Manager.

(N) *Town Council decisions shall be final.* Any decision of the Town Council concerning award of an initial license pursuant to this chapter shall be final.

(Ord. 2003-07, passed 9-25-2003)

#### § 113.024 DURATION OF LICENSE.

The duration of the rights, privileges, and authorizations granted in an initial or a renewal license shall not exceed 15 years. A license may be renewed by the town pursuant to the procedure established in § 113.025 and in accordance with the then applicable law.

(Ord. 2003-07, passed 9-25-2003)

#### § 113.025 RENEWAL.

(A) *Proceedings.* During the six-month period that begins with the thirty-sixth month before the expiration of an existing license, the town may, on its own initiative, and shall, at the request of the licensee, commence proceedings that afford the public appropriate notice and participation for the purpose of:

(1) Identifying the future cable-related community needs and interests; and

(2) Reviewing the performance of the licensee under the license during the then current license term.

*(B) Proposal.*

(1) Upon completion of a proceeding under division (A) above, the licensee seeking a renewal license may, on its own initiative or at the request of the town, submit a proposal for renewal license.

(2) Subject to § 624 of the Cable Act, such proposal shall contain such material as the town may require, including proposals for an upgrade of the cable system.

(3) The town may establish a date by which such proposal shall be submitted.

*(C) Renewal assessment.*

(1) Upon submittal by the licensee of a proposal to the town for renewal license, the town shall provide prompt notice of such proposal for renewal license and, during the four-month period that begins on the completion of any proceedings under division (A) above, issue a renewal license or issue a preliminary assessment that the license should not be renewed and, at the request of the licensee or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding in accordance with division (C)(2) below to consider whether:

(a) The licensee has substantially complied with the material terms of the existing license and with applicable law;

(b) The quality of the licensee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the cable system, has been reasonable in light of community needs;

(c) The licensee has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the licensee's proposal; and

(d) The licensee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

(2) In any proceeding under division (C)(1), the licensee shall be afforded adequate notice and the licensee and the licensor shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under division (A) above), require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

(3) At the completion of a proceeding under this division (C), the town shall issue a written decision granting or denying the proposal for renewal license based upon the record of such proceeding, and transmit a copy of such decision to the licensee. Such decision shall state the reasons therefor.

*(D) Denial.* Any denial of a proposal for renewal license shall be based on one or more adverse findings made with respect to the factors described in divisions (C)(1)(a) through (C)(1)(d) above, pursuant to the record of the proceeding under division (C) above. The town may not base a denial of

a renewal license on a failure to substantially comply with the material terms of the license under division (C)(1)(a) or on events considered under division (C)(1)(b) unless the town has provided the licensee with notice and the opportunity to cure, or in any case in which it is documented that the town has waived its right to object, or has effectively acquiesced.

(E) *Appeal*. Any licensee whose proposal for renewal license has been denied by a final decision of the town made pursuant to this chapter, or has been adversely affected by a failure of the town to act in accordance with the procedural requirements of this chapter, may appeal such final decision or failure pursuant to the provisions of §§ 626 and 635 of the Cable Act.

(F) *Informal process*. Notwithstanding the provisions of divisions (A) through (E) above, the licensee may submit a proposal for renewal license, together with the required fee, pursuant to this division (F) at any time, and the town may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of divisions (A) through (E) above shall not apply to a decision to grant or deny a proposal under this division (F). The denial of a renewal license pursuant to this division (F) shall not affect action on a proposal for renewal license that is submitted in accordance with divisions (A) through (E) above.

(Ord. 2003-07, passed 9-25-2003)

### § 113.026 TRANSFERS AND ASSIGNMENTS.

(A) (1) A license shall not be sold, assigned, or transferred, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title thereto, either legal or equitable or any right, interest, or property therein, pass to or vest in any person, except an affiliate of licensee, without prior written consent of the town, which consent shall not be unreasonably withheld.

(2) Such consent shall not be required for a transfer in trust, mortgage, or other hypothecation in whole or in part to secure an indebtedness.

(3) The proposed assignee must show the transfer will not cause any increased risks of nonperformance of the license or any loss to the town of its bargained for consideration in the license. The assignee's showings must at minimum detail facts sufficient to show the assignee's technical ability, financial capability, legal qualifications, and general character qualifications and such other qualifications as determined by the town, and the assignee must agree to comply with all provisions of the license.

(B) No change, transfer, or acquisition of control of the licensee shall occur without prior written consent of the town, which consent shall not be unreasonably withheld. The licensee shall promptly notify the town of any actual or proposed change in, or transfer to, or acquisition by any other party of control of the licensee. The word **CONTROL** as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. The sale or transfer of the license to an affiliate of a licensee does not require prior approval of the town as long as:

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(1) The sale or transfer of the existing or newly created equity interest in the licensee does not result, directly or indirectly, in a transfer of control of the licensee; and

(2) The transferee already holds an ownership interest in the licensee of 25% or more.

(C) A rebuttable presumption that transfer of control has occurred shall arise upon the acquisition or accumulation by any person, or group of persons (other than an affiliate of licensee), of more than 25% of the voting interest of the licensee or of the person exercising management authority over the licensee.

(D) Except in the case of an assignment of the license to an affiliate of licensee, upon written notification by the licensee to the town of a proposed assignment of the license, or transfer of control or ownership of the licensee company, the Town Manager shall issue his or her written notice fixing and setting forth the day, hour, and place certain when and where any persons having any interest therein may appear and be heard. The Town Clerk shall cause such notice to be published in a newspaper of general circulation within the town. The Town Clerk also shall cause a copy of such notice to be mailed to the licensee at least ten days prior to the date specified for the hearing. At the time set for such hearing, or at any adjournment thereof, the Town Manager shall proceed to hear the matter. Following the close of such hearing, the Town Manager shall prepare and file with the Council a report of the hearing, the findings, and an opinion containing his or her recommendations and the reasons therefor. If, after the expiration of ten days following receipt of the Town Manager's report and opinion, the Council shall find that the assignment of the license or transfer of control or ownership of the licensee company will not be detrimental or injurious to the best interests and welfare of the subscribers and users, and of the town, then the Council by resolution shall consent to the assignment of the license or transfer of control or ownership of the licensee company. Such resolution shall thereupon become and shall be a part of any license granted under this chapter and affected thereby.

(E) The consent or approval of the Town Council to any transfer of a license shall not constitute a waiver or release of the rights of the town in and to the streets, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of the license.

(F) In the absence of extraordinary circumstances, the Town Council will not approve any transfer or assignment of a license within three years of and in no event prior to substantial completion of construction of a proposed cable system.

(G) Notwithstanding any other requirement of this chapter, each applicant for a transfer or assignment must furnish with its request a nonrefundable filing fee in the amount established by the Council, by cash, certified or cashier's check, wire transfer, or in any other manner acceptable to the Town Manager made payable to the town. No proposal for a transfer or assignment of a license shall be considered without receipt of said fee. The fee will be used for the purpose of covering the town's cost in consideration of a transfer or assignment of a license. The fee shall be handled in the same manner as provided for an initial license fee in § 113.022 and shall, upon granting the assignment or transfer, be a credit against license fees under this chapter.

(H) The town may reserve in the license a right of first refusal to purchase a licensee's cable system.

(I) In no event shall a transfer of ownership be approved without the successor-in-interest becoming a signatory to the license.

(J) As long as a grant, rent, or lease does not amount to a transfer as defined in this chapter and is made in the ordinary course of business with prior notice to the town, a licensee in the normal course of providing cable services or other telecommunication services may grant, rent, or lease use of its cable system to other persons. Any such use shall be restricted to and consistent with such uses as the licensee is authorized in this chapter and the license or under other applicable law. Any such use shall be in compliance with applicable federal and state law. Any such grant, lease, or rent by the licensee shall not, however, thereby relieve licensee of any requirement or obligation under its license as to its use of the streets and public ways, and any such grant, rent, or lease shall require that such other person comply with the appropriate provisions of this chapter and the license as such use warrants. The grant, lease, or rent shall expressly provide for the authority of the town under applicable law to regulate the use provided by the grant, lease, or rent (including, but not limited to, the authority to protect the public welfare, safety, and health) and to enforce compliance with any applicable standards established by this chapter or the license.

(Ord. 2003-07, passed 9-25-2003)

***INITIAL AND RENEWAL LICENSE REQUIREMENTS***

**§ 113.040 EFFECT OF AWARD OF LICENSE,**

(A) *Code binding.* Upon award of an initial or a renewal license pursuant to this code, a licensee shall agree to be bound by all the terms and conditions contained herein.

(B) *Incorporation by reference of proposal for initial or renewal license.*

(1) A licensee under an initial or renewal license also agrees to provide all of the cable services specifically set forth in its proposal, if provided, to provide cable services within the license area and by its acceptance of the initial or renewal license, the licensee specifically agrees that its proposal is hereby incorporated by reference and made a part of the initial or renewal license.

(2) If such proposal and the provisions of this chapter conflict with the applicable initial or renewal license, that provision that provides the greatest benefit to the town, in the opinion of the Town Council, shall prevail; provided that, the town, having chosen or accepted one of the conflicting provisions, may not thereafter elect to require compliance with a different alternative of the conflicting provisions.

(3) Failure to provide services as promised in licensee's proposal or agreed to in its license may be deemed a breach of this chapter to which the provisions of §§ 113.128 and 113.129 of this chapter shall apply.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.041 PAYMENT OF LICENSE FEE.**

(A) For the reasons that the streets and other public rights-of-way that are used by the licensee in the operation of its cable system within the boundaries of the town are valuable public properties acquired and maintained by the town at great expense to its taxpayers, and that the grant to the licensee for the use of said streets is a valuable property right without which the licensee would be required to invest substantial capital in right-of-way costs and acquisitions, and because the town will incur costs in regulating and administering the license, the licensee shall pay to the town an amount no less than 5% of licensee's gross revenues (the "license fee").

(B) Should federal regulations be amended in the future to allow the town to receive a greater fee than the fee set forth in division (A) above, then in that event, the town shall have the right to increase the fee as specified in the license.

(C) The payment of the license fee by the licensee to the town shall be made quarterly by delivery of the same to the Town Manager on or before the twentieth day of the following month, with a ten-day grace period. If such payment is not made by the next to the last business day of the following month, the town may impose interest at a rate of 1.5% per month commencing from the date payment should have been made and continuing until the payment is made. Fractions of a month shall be considered to constitute a full month for the purpose of computing interest. In addition to interest that may be assessed under this division (C), if licensee fails to pay any license fee before the end of such grace period, licensee shall be subject to the following civil penalties.

(1) A licensee who fails to pay the license fee or any portion thereof within the time prescribed shall pay a penalty of 10% of the unpaid fee, unless the licensee shows that the failure is due to reasonable cause and not due to willful neglect.

(2) A licensee who fails or refuses to pay a license fee or any portion thereof after notice and demand by the town shall pay a penalty of 25 % of the unpaid fee, unless licensee shows that the failure is due to reasonable cause and not due to willful neglect.

(3) If the cause of failure to pay the licensee fee or any portion thereof is determined by the town to be due to civil fraud or evasion of the license fee, the licensee shall pay a penalty of 50% of the amount of deficiency.

(D) Under terms specified in the license, there shall be allowed as an offset against the license fee due under this chapter any amounts licensee paid to the town during the prior quarter in privilege license taxes; provided, however, that there shall be no offset to the extent that licensee made payments of privilege license taxes on any gross income (within the meaning of the privilege license tax ordinance) that is not included in gross revenues under this chapter.

(E) The town shall have the right to inspect the licensee's income records and the town and licensee shall each have the right to audit and to recompute any amounts determined to be payable under this



chapter; provided, however, that such audit shall take place within 36 months following the close of the licensee's fiscal year for which the audit is desired.

(1) Additional amounts due to the town discovered in the audit shall be paid within 30 days following written notice to the licensee by the town, and said notice shall include a copy of the audit report; provided, however, that licensee shall not be required to pay such deficiency until 30 days after completion of the administrative review process if licensee commences such process pursuant to § 113.106(A). If there is a deficiency in the payment of license fees to the town of 10% or more, the town may assess the cost of the audit to the licensee.

(2) Amounts owed to licensee as a result of overpayment(s) of license fees shall bear interest and shall be refunded within 30 days following written notice to the town by licensee.

(3) In lieu of direct refund to licensee under division (E)(2) above, the town may elect to grant licensee a credit against subsequent quarterly license fee payments due pursuant to this chapter until licensee has recovered the amount of the overpayment.

(F) The cost to licensee of any town right-of-way construction permit, encroachment permit, inspection, zoning review, pavement restoration, and any other fee that town imposes, under town code requirements or otherwise, on licensee's construction activities shall be included in the license fee paid to the town.

(G) Licensee shall be entitled to offset against license fees due to the town all costs that the licensee incurs for repair, renovation, restoration, or reconstruction to comply with any requirements of the town that exceed the repair and restoration requirements set forth in § 113.086, including, but not limited to, repair, renovation, restoration, or reconstruction required by any pavement restoration ordinance or similar ordinance adopted by the town and applicable to licensee. At the time license fees are due pursuant to this chapter, licensee shall provide to the town an itemized report detailing:

(1) The amount of license fees that would otherwise be due to the town without offset;

(2) A detailed report of all costs incurred by licensee and the portion of such costs that exceed the repair and restoration requirements of § 113.086 and that are being offset; and

(3) The amount of license fees, if any, being paid to the town after accounting for the offset.  
(Ord. 2003-07, passed 9-25-2003)

#### **§ 113.042 USE OF TELEPHONE FACILITIES.**

When and if a licensee of any license granted hereunder uses a telephone company's cable system distribution channels furnished to the licensee pursuant to tariff or contract on file with a regulatory body having jurisdiction and said licensee makes no use of the streets independent of such telephone company furnished facilities, said licensee remains fully bound by the terms of its license and this chapter. (Ord. 2003-07, passed 9-25-2003)

**§ 113.043 REQUIRED SERVICES AND FACILITIES.**

(A) A license shall include a description of proposed cable system design and a description of the initial programming and cable services to be offered, a description of facilities proposed for local programming, and facilities to be offered to various community institutions.

(B) A licensee shall maintain the mix, level, and quality of programming within the broad categories of video programming or other services set forth in its license. Where there has been a substantial failure to maintain the mix, level, or quality of services within the broad categories of video programming or other services as set forth in the licensee's license, the town may, following due notice and public hearing as provided in §§ 113.130 and 113.131, direct the licensee to comply with its obligations in this regard. Written notice of such hearing shall be provided to the licensee and to the public at least 30 days prior to such hearing.

(C) A license shall include a provision for the licensee to provide channel capacity for community programming on terms and conditions specified in the license.  
(Ord. 2003-07, passed 9-25-2003)

**§ 113.044 SUBSCRIBER SERVICES; RATES.**

(A) *Initial rates.* A licensee under an initial or renewal license may establish initial rates for its cable services in accordance with the rates contained in such licensee's proposal for an initial or renewal license.

(B) *Authority to regulate rates.* To the extent permitted, the town may regulate the rates for cable service in accordance with federal and state law.

(C) *Notice of rates.* Notice of rates shall be given in accordance with § 113.103.  
(Ord. 2003-07, passed 9-25-2003)

**§ 113.045 ACCESS AND PUBLIC SAFETY CHANNELS.**

(A) *Channel capacity.* As provided in the license, the licensee shall provide channel capacity for a minimum one public safety channel dedicated to the Town Fire and Police Departments, one government access channel dedicated to the town, and one education access channel dedicated to all schools within the town.

(B) *Channel management.* The operation of the public safety channel, the government access channel, and the education access channel shall be the responsibility of the town.

(C) *Excess capacity.* The licensee may be permitted to utilize unused access channel capacity under rules and procedures established by the town.  
(Ord. 2003-07, passed 9-25-2003)

**§ 113.046 CHANGES IN CABLE TECHNOLOGY.**

(A) The licensor and licensee shall meet at periods not exceeding three years or upon request of either to discuss changes in cable television laws, regulations, technology, competing services, the needs of the community, and other factors impacting cable television. As a result of these discussions, the license may be modified by the town and the licensee to respond to the change in laws, regulations, technology, competing services, the needs of the community, or other factors impacting cable television.

(B) If any of the following conditions occur, and upon written request of either licensee or licensor, the Town Manager and licensee agree to meet and discuss in good faith the terms of a mutually agreeable license amendment:

(1) Cable service similar to cable television service offered by licensee is provided by any entity using the streets and public ways, which is not subject to similar licensing requirements of the licensor; or

(2) Any other significant event occurs, including, but not limited to, changes of federal or state law or a final non-appealable order or judgment by a court of competent jurisdiction, which either licensee or licensor believes may impact the current terms and conditions of the license.

(C) The purpose of the meeting and discussion is to use best efforts to reach mutually acceptable agreement for recommendation to the Town Council for proposed Town Council action, within 90 days of such written request, on how to amend the license to relieve licensor or the licensee from any commercial impracticability which arises from the condition in question. This provision shall not require that the license be amended, however it is intended to facilitate a process whereby the parties may reach a mutually acceptable agreement.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.047 TIME IS OF THE ESSENCE.**

For any license or contract entered into pursuant to this chapter, time shall be deemed of the essence and any failure of the licensee to perform within the time allotted, or within a reasonable time if a period is not specified, shall be sufficient grounds for the town to invoke liquidated damages or revocation of a license in accordance with §§ 113.129 and 113.132.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.048 ACCEPTANCE AND EFFECTIVE DATE.**

(A) No license granted pursuant to the provisions of this chapter shall become effective unless and until all provisions required in this subchapter and §§ 113.127(A), 113.127(B), and 113.128 are done and completed, all of such provisions being hereby declared to be conditions precedent to the effectiveness of any such license granted hereunder. If any of such provisions are not done and completed in the time and manner required, the license shall be null and void.

(B) Within 20 days after the effective date of the ordinance awarding any license, or within such extended period of time as the Town Council in its discretion may authorize, the licensee shall file with the Town Clerk its written acceptance of the license, in form satisfactory to the Town Attorney, together with the letter of credit, construction bond, and insurance policies required by §§ 113.127(B) and 113.128, respectively, and its license to be bound by and to comply with and to do everything that is required of the licensee by the provisions of this chapter and the applicable license. Such acceptance shall be acknowledged by the licensee before a notary public, and shall, in form and content, be satisfactory to and approved by the Town Attorney.

(Ord. 2003-07, passed 9-25-2003)

***CONSTRUCTION REQUIREMENTS*****§ 113.060 PERMITS, INSTALLATION, AND SERVICE.**

Within 60 days after acceptance of any initial or renewal license, the licensee shall proceed with due diligence to apply for necessary permits and authorizations that are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements, microwave carrier licenses, and any other permits, licenses, and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable systems, or their associated microwave transmission facilities.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.061 LINE EXTENSION.**

(A) *Residential service.* The licensee shall make cable services available to dwelling units within the town and shall extend its cable system as contemplated under this chapter as follows. Each unit in an MDU shall be counted as a dwelling unit in determining the residential density, provided a mutually acceptable agreement granting licensee reasonable access to the MDU has been executed and delivered. The licensee shall not be required to make service available to residents of multiple dwelling units where the owner of the property has not granted licensee such reasonable access to the property.

(1) When requested by a resident or developer in the town, the licensee shall, at the licensee's sole expense, extend the cable system to any single-family residence or dwelling within the town,

provided that such extension involves density of 25 existing homes per mile as measured in linear trench or aerial strand footage from the nearest technically feasible point of connection on the cable system. Such extension(s) shall include cutting in one or more taps and extending cable as necessary.

(2) When a resident or developer in the town requests an extension of service to an area that does not meet the minimum density of 25 existing homes per mile as measured in linear trench or aerial strand footage from the nearest technically feasible point of connection on the cable system, licensee shall be required to comply with such request only if the resident or developer agrees to pay to the licensee an amount equal to all incremental costs incurred beyond those for an extension otherwise involving a density of 25 existing homes per mile. The incremental costs to be paid shall be licensee's costs (reasonable labor and materials) of extending the cable system consistently with the licensee's overall system design to the residence, or to and throughout the development, from the nearest technically feasible point of connection on the cable system. The costs shall include splicing in one or more taps and extending cable.

(3) Where there is a request by a developer for an extension to a development that does not meet the minimum density test in division (A)(2) above and where, instead of proceeding under division (A)(2) above, the developer agrees to pay licensee's full costs (reasonable labor and materials) of extending the cable system from the nearest technically feasible point of connection on the cable system to the nearest street access to the development, licensee shall then extend the cable system within the development, at the licensee's sole cost, if it has a density of 25 existing homes per mile, as measured in linear trench or aerial strand footage from the nearest street access to the development to which the developer paid to have the cable system extended.

(4) Absent a showing by licensee to the Town Manager of circumstances beyond the licensee's reasonable control, an extension of service pursuant to divisions (A)(1), (A)(2), or (A)(3) above shall be accomplished within 120 days of the developer's or resident's request.

(B) *Commercial service.* The licensee shall make cable services available to commercial establishments as follows except that the licensee shall not be required to make service available to commercial establishments where the owner of the property has not granted the licensee reasonable access to the property:

(1) When requested by the owner of a commercial establishment, provided that no plant extension and nothing more than a standard drop is required to make such cable services available; or

(2) When the owner of a commercial or industrial establishment within the town requests an extension of service that does not meet a minimum 100 hook ups per cable plant mile, licensee shall be required to comply with such request only if such owner pays to licensee an amount equal to the reasonable actual labor and material costs incurred by the licensee over and above the cost of a standard drop in making cable services available to such owner's commercial establishment. Absent a showing by the licensee to the Town Manager of unusual circumstances, including without limitation street crossings, an extension of service pursuant to this division (B)(2) shall be accomplished within 120 days of the owner's execution of any necessary easement documents and capital contribution agreements.

*(C) Service drops.*

**(1)** The licensee shall make service available to any single-family residence or any commercial establishment within the town at the standard connection charge if the connection requires a standard drop.

**(2)** If making service available requires more than a standard drop, the licensee shall not be required to make such service available unless the person or entity requesting such service pays to licensee:

(a) The standard connection charge; and

(b) An amount equal to the reasonable, actual labor and material costs incurred by licensee for the additional facilities and work.

**(3)** The licensee may offer bulk billing service, but shall not require a bulk billing agreement as a condition of providing service, if the person or entity requesting service pays to the licensee the applicable amount(s) set forth in divisions (C)(1) or (C)(2) above.

**(4)** Absent a showing by the licensee to the Town Manager of unusual circumstances, including without limitation street crossings, any standard drop to a single-family residence or dwelling shall be accomplished within ten days of the request for service and any drop that is not a standard drop shall be accomplished within 20 days of such request. Line extensions shall be done as provided in division (A)(4) above.

**(5)** Absent a showing by the licensee to the Town Manager of unusual circumstances, including without limitation street crossings:

(a) Any standard drop to a commercial establishment shall be accomplished within ten days after the owner of such commercial establishment executes any necessary easement documents and capital contribution agreements; and

(b) Any commercial drop that is not a standard drop shall be accomplished within 20 days of the owner's execution of such documents and agreements.

**(D) *Discrimination prohibited.*** No person, firm, or corporation in the existing cable service area of the licensee shall be arbitrarily refused cable services; provided, however, that the licensee shall not be required to provide cable services to any subscriber who does not pay the applicable line extension connection fee and/or cable service charge(s).

**(E) *Annexed territory.*** Newly annexed territory shall be subject to the terms of this chapter and specifically this subchapter.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.062 PLACEMENT OF TRANSMISSION FACILITIES.**

Except as provided in the license, facilities shall be placed in accordance with the town code and the zoning code.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.063 CONSTRUCTION AND TECHNICAL STANDARDS.***(A) Compliance with construction and technical standards.*

(1) As provided in the license, the licensee shall construct, install, operate, and maintain its system in a manner such that it operates at all times consistent with all laws, this chapter, construction standards of the town, the FCC rules and regulations, part 76 subpart K (Technical Standards), as amended from time to time and detailed standards submitted by an initial or renewal licensee as part of its proposal, which standards are to be incorporated by reference in an initial or renewal license. In addition, the town may at any time conduct independent measurements of the system. If inaccurate proof of performance reports are shown to have been the result of the licensee's willful neglect, the licensee shall pay the costs reasonably incurred by the town in obtaining independent verification of technical compliance with all standards.

(2) When there have been multiple, similar complaints by subscribers, or when there exists other evidence that suggests that licensee is not in substantial compliance with the technical standards, the Town Manager shall have the right and authority to compel licensee to test, analyze, and report on the performance of the cable system under the supervision of the Town Manager. Such report shall be delivered to the Town Manager no later than 30 days after the Town Manager requests such test(s) in writing and shall include the following information: the nature of the complaints that precipitated the test(s); which cable system component(s) was/were tested; the equipment used and procedure(s) employed in such testing; the result(s) of such test(s); and the manner in which such complaints were resolved. If such report indicates licensee is in substantial compliance with the technical standards, but there exists evidence suggesting that the licensee is nonetheless not in substantial compliance, the Town Manager may require that the test(s) be repeated within 30 days of the delivery of such report, under the supervision of a professional engineer who is not on the permanent staff of licensee. Such engineer shall sign all records of such repeated test(s) and shall forward to the Town Manager such records, a report interpreting the results, and recommended corrective actions, if any. The fees of such engineer shall be paid by licensee, if the repeated test(s) show(s) licensee is not in substantial compliance with the technical standards of this chapter or the town, if the repeated test(s) show(s) licensee is in substantial compliance with said standards.

*(B) Additional specification.* Construction, installation, and maintenance of a cable system shall be performed in an orderly and professional manner. All cables and wires shall be installed, where possible, parallel with and in a manner similar to the installation of electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations. Underground installations shall be in conformance with all applicable codes. Each cable system shall include equipment capable of providing stand-by power as specified in the license. The equipment shall

be so constructed as to automatically revert to the stand-by mode when the electrical utility power returns. The system shall incorporate safeguards necessary to prevent injury to technicians resulting from licensee's standby power sources. The licensee shall at all time comply with applicable sections of:

- (1) National Electrical Safety Code (ANSI) C2-1990;
- (2) National Electrical Code (National Bureau of Fire Underwriters);
- (3) The Uniform Building Code as may be adopted and amended by the town, together with applicable portions of all other uniform codes, as may be adopted and amended by the town, promulgated by the International Conference of Building Officials;
- (4) Town zoning code and subdivision regulations, all as from time to time amended and revised, and all other applicable rules and regulations now in effect or hereinafter adopted by the town; and
- (5) The Maricopa Association of Governments Uniform Standard Specifications for Public Works Construction, including the latest town supplement thereto.

(C) *Emergency service.* In accordance with the provisions of FCC rules and regulations part 11, subpart D, § 11.51(h)(1), and as such provisions may from time to time be amended, every licensee shall install and maintain an Emergency Alert System (EAS) and shall transmit all Emergency Act Notifications (EAN) and Emergency Act Terminations (EAT) relating to local and state-wide situations as may be designated to be an emergency by the Local Primary (LP), the State Primary (SP) and/or the State Emergency Operations Center (SEOC), as those authorities are identified and defined within FCC rules and regulations, part 11. In any event, the cable system shall not endanger or interfere with the safety of persons or property in the license area or other areas where the licensee may have equipment located.

(Ord. 2003-07, passed 9-25-2003)

#### **§ 113.064 UTILITY LOCATING SYSTEM.**

All licensees shall be required to be a participant in the regional one call utility locating system (Blue Stake).

(Ord. 2003-07, passed 9-25-2003)

#### **§ 113.065 RESIDENT NOTIFICATION OF CONSTRUCTION ACTIVITY REQUIRED.**

All licensees shall provide reasonable advance notice to all affected residents prior to system construction crews entering the right-of-way in front of their property; provided, that the licensee shall not be required to provide such notice in emergencies or for normal system repair and maintenance work.

(Ord. 2003-07, passed 9-25-2003)



**§ 113.066 CABLE SYSTEM CONSTRUCTION MAP AND SCHEDULE.**

(A) Within 120 days after acceptance of any license, a licensee that is required in its license to construct or reconstruct the cable system shall submit a specific construction plan or reconstruction plan, which shall be incorporated as an exhibit in the license. The plan shall include an overall time schedule of any construction or reconstruction effort and system design criteria.

(B) Within 90 days after obtaining necessary permits, licenses, and authorizations, such licensee shall commence construction and installation of the cable system.

(1) The licensee shall comply with the time schedule for construction required in § 113.061(A).

(2) Installation and operation of the new or rebuilt cable system by licensee shall proceed on a nondiscriminatory basis, without regard for subscriber affluence or other discriminatory factors.

(3) Immediately following commencement of construction and installation of the cable system under an initial or renewal license, the licensee shall diligently proceed to deliver cable services, as described in the license.

(C) Failure on the part of the licensee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein, shall be grounds for liquidated damages and/or revocation of such license pursuant to §§ 113.129 and 113.132; provided, however, that the Council, in its discretion, may extend the time for the commencement and completion of construction and installation for additional periods if the licensee acting in good faith experiences delays by reason of circumstances beyond its control.

(Ord. 2003-07, passed 9-25-2003)

***REGULATIONS PERTAINING TO USE OF TOWN STREETS AND PUBLIC RIGHTS-OF-WAY***

**§ 113.080 LOCATION OF PROPERTY OF LICENSEE.**

(A) Any poles, wires, cable lines, conduits, or other properties of a licensee to be constructed or installed in streets shall be so constructed or installed only at such locations and in such manner as shall be approved by the Town Manager acting in the exercise of his or her reasonable discretion consistent with the town's technical and permitting regulations.

(B) Except as provided by the town, a licensee shall not install or erect any facility or apparatus in or on any privately-owned area within the town that has not yet become a public street, whether or not designated or delineated as a proposed public street on any preliminary subdivision approved by the town.

(C) Notwithstanding any other provision in this chapter or any license granted pursuant thereto, all facilities of a licensee in any public street or in any public or private easement, and cable service lines to subscribers off the main lines, shall be located underground as per the town's subdivision regulations as may be amended from time to time and at such depths and locations as shall be approved by the Town Manager.

(D) Except as provided in the license, upon the undergrounding of other utility lines or shared overhead facilities, the licensee shall concurrently (or earlier) place its facilities underground, at its own expense (when the undergrounding is at the expense of the other utilities involved), at depths and locations approved by the Town Manager.

(E) All new underground wires or cable of the licensee placed after the effective date of this chapter shall be placed in conduit except for service drop lines.

(F) As required by the Town Manager or other appropriate departments, the licensee or its authorized contractors will obtain permits, prior to any physical work being performed in the town's rights-of-way, or on town-owned property. All work will be done in accordance with the town's technical and permitting specifications. A licensee shall make maps of the applicable portion of the cable system showing amplifier and power supply locations available for inspection and review at the office where licensee maintains such records. The licensee shall provide the town with up-to-date route maps of a suitable scale showing all transmitting and receiving pickup locations and cable route and pedestal locations.

(G) To prevent unnecessary disruption and damage to streets, rights-of-way, and other property, the installation of cable system shall be accomplished in new subdivisions at the same time, and in the same trench as other communications, electric, and other permanent services to structures. Except as federal law may grant them other rights, developers of new residential buildings or mobile homes within a new or undeveloped subdivision, new residential units within new multiple occupancy residential developments, and new commercial and industrial buildings and structures shall treat cable facilities as they treat other communication facilities, utilities, and other underground facilities, in regards to availability and cost of trenching for undergroundings.

(Ord. 2003-07, passed 9-25-2003)

### **§ 113.081 EMERGENCY WORK.**

The town reserves the right to move any portion of the licensee's equipment and facilities as may be required in any emergency as determined by the town without liability for interruption of cable service. However, prior to taking any action pursuant to this subchapter, the town shall provide, if feasible, reasonable notice to licensee of the emergency to allow the licensee the opportunity to protect or repair licensee's facilities involved in the emergency.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.082 REMOVAL AND ABANDONMENT OF PROPERTY OF LICENSEE.**

(A) If the use of a substantial part of the cable system is discontinued for any reason for a continuous period of 12 months, or if such cable system or property has been installed in any street or public place without complying with the requirements of the licensee's license or this chapter, or the license has been terminated, canceled, or has expired without renewal, the licensee shall promptly, upon being given ten days' notice from the Town Manager, remove from the streets or public places all such property and poles of such cable system other than any underground cable or any other underground property that the Town Manager may permit to be abandoned in place. Upon such removal, the licensee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the Town Manager.

(B) Any property of the licensee remaining in place 180 days after the termination or expiration of the license shall be, at the option of the town, considered permanently abandoned. The town may extend such time.

(C) Any property of the licensee permitted to be abandoned in place shall be abandoned in such a manner as the Town Manager shall prescribe. Upon permanent abandonment of the property of the licensee in place, the property shall become that of the town, and the licensee shall submit to the town an instrument in writing, to be approved by the Town Attorney, transferring to the town the ownership of such property.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.083 TEMPORARY REMOVAL OF WIRE FOR BUILDING IMPROVEMENTS.**

The licensee, on the request of any person, firm, or corporation holding a building moving permit issued by the town, shall temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of wires shall be paid to the licensee by the person, firm, or corporation requesting the same, and the licensee shall have the authority to require such payment in advance. The licensee shall be given not less than 48 hours' advance notice to arrange for such temporary wire changes.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.084 CHANGES REQUIRED BY PUBLIC IMPROVEMENTS.**

The licensee shall from time to time protect, support, temporarily dislocate, temporarily or permanently, as may be required, remove or relocate, without expense to the town, any facilities installed, used, or maintained under the license, if and when made necessary by any lawful change of grade, alignment, or width of any street, by the town or made necessary by any other public improvement or alteration in, under, on, upon, or about any street, when such public improvement or alteration is at the instance of the town, when such improvement or alteration is for a governmental or proprietary function, or made necessary by traffic conditions, public safety, street vacation, or any other

public project or purpose of town, and when the licensee has substantially the same obligations with respect to the cost thereof as all other users of the public rights-of-way.

(Ord. 2003-07, passed 9-25-2003)

#### **§ 113.085 METHODS AND MATERIALS OF STREET REPAIR.**

The town shall have the right to specify the methods and materials of street repair or restoration, together with the horizontal and vertical location of any underground facility proposed by licensee within any public property or right-of-way. The town shall also have the right to control and regulate the work of the licensee to assure a minimum of inconvenience to the traveling public and to impose traffic control requirements, as specified in the town's subdivision regulations and the town code. The licensee will be required to obtain permits from the town, allowing the licensee to work in the public right-of-way.

(Ord. 2003-07, passed 9-25-2003)

#### **§ 113.086 FAILURE TO PERFORM STREET REPAIR.**

(A) If the licensee causes damage to pavement, sidewalks, driveways, landscaping, or other property during construction, installation, or repair of its facilities, licensee or its authorized agent shall replace and restore such places as nearly as may be possible to the condition that existed before the damage occurred. All repair and restoration necessary to meet the requirements set forth in this section shall be at the licensee's expense and in a manner acceptable to the town. The licensee shall further maintain all such repair and restoration related to the licensee's activities, in the condition approved by the town, for one year following repair or restoration.

(B) Upon failure of the licensee to complete any work required by law or by the provisions of this chapter to be done in any street, within ten days following due notice and to the satisfaction of the Town Manager, the town may, at its option, cause such work to be done through its own forces or through a hired contractor. The licensee shall pay to the town the cost thereof in the itemized amounts reported by the Town Manager to the licensee within 15 days after receipt of such itemized report; or, at the town's option, the town may demand of licensee the estimated cost of such work as estimated by the Town Manager, and the licensee shall pay the amount to town within 15 days of such demand. Upon award of any contract or contracts therefor, the licensee shall pay to town, within 15 days after demand, any additional amount necessary to provide for cost of such work. Upon completion of such work, the licensee shall pay to town or town shall refund to licensee such sums so that the total received and retained by town shall equal the cost to the town of such work. **COST**, as used herein, shall include 15% of all other costs for its own personnel and equipment and materials or for a contractor to compensate the town for its overhead, including inspection and supervision, and any interest charges incurred by town arising out of the licensee's late payment to town under this section.

(Ord. 2003-07, passed 9-25-2003)

***SUBSCRIBER SERVICE PROVISIONS***

**§ 113.100 LOCAL BUSINESS OFFICE REQUIREMENTS.**

The licensee shall maintain at least one physical office located within ten miles of the town limits. The physical office of the company shall be a place(s) conveniently located where subscribers may pay their bills and register complaints and have them resolved; schedule installations and service calls; obtain assistance on technical problems; obtain and return converter boxes, remotes, and other customer premises information; and receive information on the company and its services. Said office(s) shall be open throughout normal business hours.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.101 EFFICIENT TELEPHONE COMMUNICATIONS SERVICE.**

A licensee shall render efficient telephone communication service to subscribers and, at a minimum, meet all of the standards set forth below.

(A) The licensee shall have a publicly listed, local or toll-free telephone number and receive complaints, requests for repairs, service calls, billing inquiries, and other subscriber information 24 hours, seven days a week.

(B) Trained licensee representatives shall be available to respond to subscriber telephone inquiries during normal business hours.

(C) After normal business hours, the access line may be answered by a service or an automated response system; provided, however, that such service or automated system shall notify licensee personnel immediately in the case of an interruption of service. Inquiries received after normal business hours must be responded to by a licensee representative on the next business day.

(D) Under normal operating conditions, the mean average telephone answer time by a subscriber representative receiving calls on the licensee's billing and repair line shall not exceed 60 seconds after the connection is made. If the call needs to be transferred, the mean average transfer time shall not exceed 30 seconds under normal operating conditions. These standards shall be met no less than 90% of the time under normal operating conditions, measured on a quarterly basis. A caller on hold shall be informed at least every 60 seconds of the status of the call.

(E) Under normal operating conditions, the subscribers shall not receive a busy signal more than 5 % of the time.

(F) The licensee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless a historical record of compliance indicates a clear failure to comply.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.102 SUBSCRIBER SERVICE STANDARDS.**

(A) Each licensee shall at all times satisfy federal customer service standards and the subscriber service standards set forth in the license and this chapter. If there is a conflict among standards, the standard set forth in the license and this chapter shall prevail, unless federal law has preempted such standard, in which case the federal standard shall apply to the extent required by federal law.

(B) Upon termination of cable services to any subscriber, the licensee shall promptly remove its conveyer equipment from the premises of such subscriber upon the subscriber's request.

(C) The licensee shall render efficient cable services, make repairs promptly, and interrupt cable services only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall occur during periods of minimum cable system use.

(D) The licensee shall not knowingly allow its cable or other operations to interfere with television reception of persons not serviced by licensee, nor shall the cable system interfere with, obstruct, or hinder in any manner, the operation of the various utilities serving the residents of the town.

(E) The licensee shall continue, through the term of the license, to maintain the technical, operational, and maintenance standards and quality of cable service set forth in the license and this chapter.

(F) Under normal operating conditions, each of the following four standards for subscribers shall be met not less than 95% of the time, measured on a quarterly basis.

(1) Standard drops (including reconnects) shall be installed within seven days after an order has been placed.

(2) Under normal operating conditions, the licensee will begin working on service interruptions promptly and in no event later than 24 hours after the service interruption becomes known.

(3) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at a maximum, a four-hour time block during normal business hours. The licensee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the subscriber.

(4) If a licensee representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the licensee will attempt to contact the subscriber. The appointment will be rescheduled, as necessary, at a time that is convenient for the subscriber.

(G) In addition to the service interruption requirements set forth above, whenever it has been determined that an outage exists, the licensee shall respond immediately. It shall be deemed a violation

if licensee exceeds a four-hour average response time to outages during any consecutive three-month period.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.103 SUBSCRIBER AND TOWN NOTIFICATION REQUIREMENTS.**

Licensee shall meet the following subscriber and town notification requirements.

(A) The license shall provide written information in easy-to-understand language on each of the following areas prior to or at the time of installation of service, at least annually to all subscribers and the town, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Information on a parental control feature that will permit a subscriber to lock out any objectionable programming from the cable services entering subscriber's home.

(6) Channel positions of programming carried on the system; and

(7) A description of the full billing and subscriber complaint procedures, including the address and telephone number of the town's designated office for handling cable television matters. The description of the complaint procedures shall delineate the process for submitting a subscriber complaint and shall specify:

(a) The telephone number and address of the licensee that the subscriber can use to make a complaint;

(b) A statement indicating that a dissatisfied subscriber should exhaust its efforts with the licensee before submitting a complaint to the town; and

(c) The address and title of the official in the town designated by the Town Manager to review complaints.

(B) Subscribers and the town will be notified of any changes in rates, programming, services, or channel positions as soon as possible in writing. Notice must be given to the town and subscribers a minimum of 30 days in advance of such changes if the change is within the control of the licensee, unless the town concurs that notice is not necessary. In addition, the licensee shall notify the town and

subscribers 30 days in advance of any significant changes in the other information required by division (A) above.

(Ord, 2003-07, passed 9-25-2003)

### § 113.104 BILLING PRACTICES; INFORMATION AND PROCEDURES.

(A) Bills to subscribers shall be clear, concise, and understandable. Bills to subscribers must be fully itemized, with itemizations including, but not limited to, basic service and premium service charges and equipment charges. Bills to subscribers will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(B) The licensee shall bill all subscribers to its cable system in a uniform manner, regardless of subscriber's level of service. In no case shall any subscriber be billed for services in excess of 30 days prior to receipt of such service. Payment shall be due no sooner than the fifteenth day of each billing period, and due date shall be listed on each bill, Bills shall be mailed no later than the first day of the billing period.

(C) In case of a subscriber dispute, the licensee must respond to a written complaint from a subscriber within 30 days. The licensee shall follow a written internal appeal procedure for resolution of subscriber disputes.

(D) Refund checks will be issued promptly, but no later than either:

(1) The subscriber's next billing cycle following resolution of the request or 30 days, whichever is earlier;

(2) For equipment deposits, upon the return of the equipment supplied by the licensee if service is terminated; or

(3) For payment deposits, after 12 months of satisfactory customer payments.

(E) Credits for service will be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

(F) Any subscriber shall be entitled, upon oral or written request to the licensee, to a refund equal to one day's service for each subscriber's loss of service caused by licensee:

(1) For each continuous 24-hour period; or

(2) For each period of two or more hours of any four days within a monthly billing period.  
(Ord, 2003-07, passed 9-25-2003)



**§ 113.105 CHANGES TO SUBSCRIBER SERVICE OBLIGATIONS.**

(A) The town shall enforce the subscriber service standards as set forth in this subchapter. Nothing in this subchapter shall be construed to prevent or prohibit the town from establishing or enforcing subscriber service standards that impose requirements that exceed, or that apply to matters not addressed by, the standards set forth in this subchapter.

(B) Before adopting new subscriber service standards that impose requirements that exceed, or address matters not addressed by, the standards set forth in this subchapter, the town shall propose new subscriber service standards and meet with the licensee to discuss the specific areas of concern and negotiate a mutually acceptable resolution of such areas. If no resolution is reached, the town shall provide licensee with 90 days' written notice of its intent to adopt proposed new subscriber service standards.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.106 SUBSCRIBER COMPLAINT PROCEDURES.**

A licensee shall comply with the following subscriber complaint procedures. A subscriber complaint is any written or oral complaint by a subscriber to the town that the subscriber did not receive the service the subscriber requested consistent with the requirements of the license.

(A) The licensee shall ensure that all subscribers have recourse to a satisfactory process for submitting any complaints. Licensee shall respond to and resolve all subscriber complaints within a reasonable time. In case of written subscriber complaint, the licensee shall respond within 30 days. The licensee shall follow a written internal appeal procedure for resolution of disputes over subscriber complaints.

(B) Every licensee shall establish and maintain a written log listing all subscriber complaints. The written log shall include the name and telephone number, if given, of the subscriber making the complaint and the action taken by the licensee on the complaint. The record shall be maintained by the licensee for three years and to the extent permitted by federal law shall be available to the Town Manager and the public for inspection upon request during the licensee's normal business hours. The licensee shall also report specific complaint categories that the licensee tracks as a reasonable measure of subscriber service response standards and is required to report in the license.

(C) A licensee shall provide, in writing, upon request of the Town Manager, a detailed description of any subscriber complaint and the action taken by the licensee.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.107 SUBSCRIBER SOLICITATION PROCEDURES.**

A licensee shall comply with the following subscriber solicitation procedures.

(A) All personnel, agents, and representatives of the licensee, including subcontractors, shall wear a cable uniform or clearly display a photo-identification badge when acting on behalf of the licensee in the town.

(B) The licensee shall afford each subscriber of the cable system a three-day right of rescission for ordering installation of cable service from the cable system, provided that such right of rescission shall end upon initiation of physical installation of cable system equipment on such subscriber's premises. (Ord. 2003-07, passed 9-25-2003)

### **§ 113.108 DISCONNECTION AND TERMINATION OF CABLE SERVICES.**

A licensee shall only disconnect or terminate a subscriber's cable service for good and just cause. In no event shall a licensee disconnect said cable service for nonpayment without the prior written notification to the affected subscriber at least seven days before such disconnection or termination. In no event shall such disconnection or termination for nonpayment occur in less than 30 days after a subscriber's failure to pay a bill due. Where the licensee has improperly discontinued cable system service to any such subscriber, it shall provide free reconnection to the cable system to such subscriber. (Ord. 2003-07, passed 9-25-2003)

### **§ 113.109 RIGHTS OF INDIVIDUALS.**

(A) A licensee shall not deny cable service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, sex, age, or disability. A licensee shall comply at all times with all other applicable federal, state, and local laws and regulations, and as amended from time to time, relating to nondiscrimination.

(B) A licensee shall strictly adhere to applicable equal employment opportunity requirements of federal, state, and local regulations, and as amended from time to time. (Ord. 2003-07, passed 9-25-2003) Penalty, see§ 113.999

### **§ 113.110 PROTECTION OF SUBSCRIBER PRIVACY.**

(A) At the time of entering into an agreement to provide any cable service to a subscriber and at least once a year thereafter, a licensee shall provide notice in the form of a separate, written statement to such subscriber that clearly and conspicuously informs the subscriber of:

(1) The nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

(2) The nature, frequency, and purpose of any disclosure that may be made of such information, including any identification of the types of persons to whom the disclosure may be made;

(3) The period during which such information will be maintained by the licensee;

(4) The times and place at which the subscriber may have access to such information in accordance with division (F) below;

(5) The limitations provided by this section with respect to the collection and disclosure of information by a licensee and the right of the subscriber under divisions (I) and (J) below to enforce such limitations; and

(6) For purposes of this section, the term **PERSONALLY IDENTIFIABLE INFORMATION** does not include any record aggregate data that does not identify particular persons.

(B) Except as provided in division (D) below, a licensee shall not use the cable system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent to the subscriber concerned.

(C) A licensee may use the cable system to collect such information in order to:

(1) Obtain information necessary to render a cable service or other service provided by the licensee to the subscriber; or

(2) Detect unauthorized reception of cable communications.

(D) Except as provided in division (F) below, a licensee shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

(E) A licensee may disclose such information if the disclosure is:

(1) Necessary to render or conduct a legitimate business activity related to a cable service or other service provided by the licensee to the subscriber;

(2) Subject to division (J) below, made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed; or

(3) A disclosure of the names and addresses of subscribers to any cable service or other service, if:

(a) The licensee has provided the subscriber the opportunity to prohibit or limit such disclosure; and

(b) The disclosure does not reveal, directly or indirectly, the:

1. Extent of any viewing or other use by the subscriber of a cable service or other service provided by the licensee; or

2. The nature of any transaction made by the subscriber over the cable system of the licensee.

(F) A subscriber shall be provided, free of charge, access to all personally identifiable information regarding that subscriber that is collected and maintained by a licensee. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such licensee. A cable subscriber shall be provided reasonable opportunity to correct any error in such information.

(G) A licensee shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under division (F) above or pursuant to a court order.

(H) Any person aggrieved by any act of a licensee in violation of this section may bring a civil action in a court of general jurisdiction, as provided in § 631 of the Cable Act.

(I) Nothing in this chapter shall be construed to prohibit the town from enacting or enforcing additional laws consistent with this section for the protection of subscriber privacy.

(J) A governmental entity may obtain personally identifiable information only if, in the court proceeding relevant to such court order:

(1) Such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

(2) The subject of the information is afforded the opportunity to appear and contest such entity's claim.

(Ord. 2003-07, passed 9-25-2003)

### ***ADMINISTRATION AND ENFORCEMENT PROVISIONS***

#### **§ 113.125 REPORTS.**

(A) Each year, the licensee shall brief the offices of the Town Manager, no later than 120 days after the end of the licensee's fiscal year. The briefing shall include a description of all major activities applicable to its operation during the preceding 12-month period. At the briefing, the licensee shall submit a written report that includes the following information, specific to the town: number of homes passed, number of cable plant miles, number of subscribers for each type of cable service offered and the gross revenues from each source attributable to the operations of the licensee from within the town. This report shall be verified as being correct by an officer of the company. There shall be submitted along with this report such other information reasonably related to license compliance as the town shall reasonably request.

(B) Upon request, there shall be provided to the town, copies of any communications and reports submitted by the licensee to the FCC or any other federal or state regulatory commission or agency having jurisdiction in respect to any manners affecting construction or operation of a cable system in the town.

(C) The licensee shall provide the town with monthly reports, as needed, to establish the licensee's compliance with the various standards and other provisions of this chapter.  
(Ord. 2003-07, passed 9-25-2003)

**§ 113.126 INSPECTION OF PROPERTY AND RECORDS.**

(A) At all reasonable times, the licensee shall permit any duly authorized representative of the town to examine all property of the licensee, together with any appurtenant property of the licensee situated within or without the town, and to examine and transcribe any and all maps and other records kept or maintained by the licensee or under its control that relate to license compliance and deal with the operations, affairs, transactions, or property of the licensee.

(B) The licensee shall at all times make and keep full and complete plans and records showing the exact location of all cable system equipment installed or in use in streets, public rights-of-way, and other places in the town and make them available to the town for review upon request.

(C) The licensee shall provide the Town Manager maps or sets of maps drawn to scale, showing the location of the licensee's underground and aboveground facilities. Upon request, such maps or sets of maps shall be provided in an electronic format compatible with the current town electronic format.  
(Ord. 2003-07, passed 9-25-2003)

**§ 113.127 PROTECTION OF TOWN AGAINST LIABILITY.**

*(A) Indemnification.*

(1) The licensee shall fully indemnify, defend, and hold harmless the town, its officers, boards, commissions, elected officials, agents, attorneys, representatives, servants, and employees against any and all costs, damages, expenses, claims, suits, actions, liabilities, and judgments for damages, including but not limited to, expenses for legal fees, whether suit be brought or not, and disbursements and liabilities incurred or assumed by town in connection with:

(a) Damage to persons or property, in any way arising out of or through the acts or omissions of licensee, its servants, officials, agents, attorneys, representatives, or employees;

(b) Requests for relief arising out of any licensee action or inaction that results in a claim for invasion of right of privacy, for defamation of any person, firm, or corporation; for the violation or infringement of any copyright, trademark, trade name, service mark, or patent; or of any other right of any person, firm, or corporation;

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(c) Any and all claims arising out of the licensee's failure to comply with the provisions of this chapter or a license or any federal, state, or local law, or regulation applicable to licensee or the cable system; or

(d) Any and all disputes arising out of a claim by any party other than town wherein damages or other relief is sought as a result of the town's cable system licensing of licensee or as a result of the renewal or non-renewal of the licensee's cable system license.

(2) If a lawsuit covered by the provisions of division (A)(1) above be brought against town, either independently or jointly with a licensee, or with any other person or municipality, the licensee, upon notice given by town, shall defend the town at the cost of the licensee. If final judgment is obtained against the town, either independently or jointly with licensee or any other defendants, the licensee shall indemnify the town and pay such judgment with all costs and attorneys' fees and satisfy and discharge the same.

(3) The town shall cooperate with the licensee and reserves the right to participate in the defense of any litigation.

(4) The town is in no manner or means waiving any governmental immunity it may enjoy or any immunity for its agents, officials, servants, attorneys, representatives, and/or employees.

(5) A licensee shall make no settlement in any matter identified above without the town's written consent, which shall not be unreasonably withheld. Failure to inform the town of settlement shall constitute a breach of the license and the town may seek any redress available to it against the licensee; whether set forth in this chapter or under any other municipal, state, or federal laws.

(6) All rights of town, pursuant to indemnification, insurance, letter of credit, or performance bond(s), as provided for by this chapter, are in addition to all other rights the town may have under this chapter or any other code, rule, regulation, or law.

(7) The town's exercise of, or failure to exercise all rights pursuant to, any section of this chapter shall not affect in any way the right of the town subsequently to exercise any such rights or any other right of town under this code or any other code, rule, regulation, or law.

(8) It is the purpose of this section to provide maximum indemnification to the town under the terms and conditions expressed and, if there is a dispute, this section shall be construed (to the greatest extent permitted by law) to provide for the indemnification of the town by the licensee.

(9) The provisions of this section shall not be dependent or conditioned upon the validity of this chapter or the validity of any of the procedures or agreements involved in the award or renewal of a license, but shall be and remain a binding right and obligation of the town and a licensee even if part or all of this chapter, or the grant or renewal of a license, is declared null and void in a legal or administrative proceeding. It shall be expressly stated in a license that it is the intent of the licensee and

town, upon the effective date of the license, that the provisions of this section survive any such declaration and shall be a binding obligation of and inure to the benefit of the licensee and town and their respective successors and assigns, if any.

*(B) Comprehensive liability insurance.*

(1) 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 that 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. Such policy or policies shall include insurance against damages from unfair competition, copyright infringement (common law or statutory), and a failure of licensee to secure consents, occasioned by any activity or operation of licensee under such license, and regardless of any claimed or actual activities of town, its officers, boards, commissions, agents, and employees.

(2) The Town Council, in any license granted, may waive the requirement for insurance from one or more perils mentioned in the last preceding sentence upon a finding that such insurance cannot be procured or cannot be procured at a reasonable cost, and in connection therewith may reduce the otherwise required limits on coverage hereafter set forth. Such policy or policies shall be issued by a company approved by the Town Manager and shall be in a form approved by the Town Attorney, with minimum combined single limits of liability coverage in the amount of \$3,000,000. 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 Town Clerk 30 days in advance of the effective date thereof.

(3) No license granted under this chapter shall be effective unless and until each of the foregoing policies of insurance as required in this division (B) has been delivered to the Town Clerk. Any substitute policy or policies shall be subject to the same approvals and shall comply with all of the provisions of this division (B).

(4) The Town Council may require increases in the amount of types of coverage no more frequently than every three 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 Town Manager to comply with any increase.

(5) 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.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.128 LETTER OF CREDIT.**

(A) Within 30 days after the award or renewal of a license, a licensee shall deposit with the town an irrevocable letter of credit in an amount not to exceed \$5,000 issued by a federally insured commercial lending institution. The form and substance of said letter of credit shall be used to assure the faithful performance by a licensee of all provisions of this and resulting license; and compliance with all orders, permits, and directions of any agency, commission, board, department, division, or office of the town having jurisdiction over its acts or defaults under a license and the payment by the licensee of any penalties, liquidated damages, claims, liens, and taxes due to the town that arise by reason of the construction, operation, or maintenance of the cable system, including cost of removal or abandonment of any property of the licensee.

(B) The letter of credit may be drawn upon by the town by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the Town Manager certifying that the licensee has been found, pursuant to §§ 113.131(C) or 113.132, to have failed to comply with its license, stating the nature of noncompliance, and stating the amount being drawn. Examples of the nature of the noncompliance for drawing upon the letter of credit include, but are not limited to, the following:

(1) Failure of the licensee to pay to the town any license fees or taxes after ten days' written notice of delinquency;

(2) Failure of the licensee to pay to the town, after ten days' written notice, after all judicial remedies have been exhausted, any amounts due and owing the town by reason of the indemnity provisions of § 113.127; and

(3) Failure of the licensee to pay to the town any liquidated damages due and owing to the town pursuant to the license.

(C) The letter of credit shall be structured in such a manner so that if the town at any time draws upon the letter of credit, upon notice to the licensee by the issuing lending institution, licensee shall increase immediately the amount of available credit to the extent necessary to replenish that portion of the available credit exhausted by the honoring of the town's draft. The lending institution shall notify the town of the replenishment by licensee. The intent of this division (C) is to make available to the town at all times a letter of credit in the amount of \$5,000.

(D) The rights reserved to the town with respect to the letter of credit are in addition to all other rights of the town, whether reserved by a license or authorized by law, and no action proceeding against a letter of credit shall affect any other right the town may have.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.129 LIQUIDATED DAMAGES.**

(A) If the town notifies the licensee, in writing, of an alleged violation of the subscriber service standards in §§ 113.100 through 113.110, the licensee shall have 90 days to correct or cure the alleged



violation. If the alleged violation is not corrected or cured within 90 days, the town and the licensee shall meet to discuss the alleged violation and negotiate a mutually acceptable resolution. If no resolution is reached within 90 days, the licensee is subject to liquidated damages pursuant to this section.

(B) Each license granted by the town shall state that a licensee understands and shall agree that failure to comply with any time and performance requirements as stipulated in this chapter and the license will result in damage to the town, and that it is and will be impracticable to determine the actual amount of such damage caused by delay or nonperformance; the license shall include provisions for liquidated damages to be paid by the licensee, in amounts set forth in the license and chargeable to the letter of credit for the following concerns:

(1) Failure to provide cable service within the time(s) specified in § 113.062;

(2) Failure to properly restore the public right-of-way or to correct related violations of specifications, code, ordinance, or standards after having been notified by the town to correct such defects;

(3) Failure to comply with subscriber service provisions of this chapter;

(4) Failure to test, analyze, and report on the performance of the cable system following a written request pursuant to § 113.063(A);

(5) Failure to provide in a continuing manner the type of services proposed in the accepted proposal for initial license or in the initial or renewal license unless the Town Council specifically approves modification of a licensee's obligation;

(6) Failure to cure any violation of § 113.102, following notice and an opportunity to cure pursuant to the provisions of that section; and

(7) Any other action or non-action by the licensee to which none of the above reasonably apply and damages cannot be estimated on a daily basis.

(C) If the Town Manager concludes that a licensee is in fact liable for liquidated damages pursuant to this section, he or she shall issue to licensee by certified mail a notice of intention to assess liquidated damages. The notice shall set forth the nature of the violation and the amount of the proposed assessment. The licensee shall, within 30 days of receipt of such notice:

(1) Respond to the town in writing, contesting the town's assertion of violation and providing such information or documentation as may be necessary to support licensee's position; or

(2) Cure any such violation (and provide written evidence of the same) or, if, by the nature of the violation, such violation cannot be cured within such 30-day period, take reasonable steps to cure said violation and diligently continue such efforts until said violation is cured. The licensee shall report to the town, in writing, at 30-day intervals as to the licensee's efforts, indicating the steps taken by the licensee to cure said violation and reporting the licensee's progress until such violation is cured.

(B) If the licensee contests the town's assertion of violation or fails to respond to the town's notice of intent to assess liquidated damages, within 15 days the town shall schedule a hearing in accordance with the procedures set forth in § 113.130.

(Ord. 2003-07, passed 9-25-2003)

### **§ 113.130 ADMINISTRATIVE HEARING.**

(A) Within 15 days of receipt of notice of contest pursuant to § 113.129(C)(l), expiration of the response time referred to in § 113.102(G) or division (C) below, or notice from the licensee that it contests an audit determination of license fees under § 113.041(E), an administrative hearing shall be scheduled by the Town Manager. This shall be a public hearing and the licensee shall be afforded full due process, including, without limitation, an opportunity to be heard, to present evidence, and to cross-examine witnesses. Within 15 days after the conclusion of such hearing, the Town Manager shall issue a determination. In that determination, the Town Manager may:

(1) Find that the licensee is not in violation of the terms of the license;

(2) Find that the licensee is in violation, but that such violation was with just cause and waive any liquidated damages that might otherwise be imposed;

(3) Find that licensee is in violation of the terms of the license, take corrective action, and foreclose on all or any appropriate part of the letter of credit provided pursuant to § 113.128;

(4) Find that licensee is in violation of the terms of the license and impose liquidated damages;

or

(5) In the case of a material violation, recommend that the Town Council terminate the license, provided that the Town Council may take action on any such recommendation only after a public hearing as set forth in § 113.131.

(B) If the Town Manager determines that the licensee has committed a violation, the determination shall be accompanied by a detailed statement of reasons for the determination, including findings of fact.

(C) The decision of the Town Manager shall become final unless the licensee requests a public hearing before the Town Council within 15 days of its receipt of the statement of reasons and findings of fact by the Town Manager.

(Ord. 2003-07, passed 9-25-2003)

### **§ 113.131 HEARING BY TOWN COUNCIL.**

(A) If a public hearing before the Town Council is requested by licensee or is held pursuant to § 113.130(A)(5) or (C), it shall be de nova and it shall convene within 30 days of the request therefor. The Town Council may designate three of its members to act as a hearing subcommittee to collect all

evidence in the matter and to present written findings of fact and conclusions of law to the entire Town Council. All witnesses shall be sworn and shall be subject to cross-examination; however, formal rules of evidence shall not apply. The Town Council's decision, which shall include findings of fact, shall be made not later than 45 calendar days after the conclusion of the hearing.

(B) In that decision, the Town Council may:

(1) Find that the licensee is not in violation of the terms of the license;

(2) Find that the licensee is in violation but that such violation was with just cause and waive any liquidated damages or penalty that may otherwise to imposed;

(3) Find that the licensee is in violation of the terms of the license, take corrective action, and foreclose on all of any appropriate part of the letter of credit provided pursuant to § 113.128 to pay the cost thereof;

(4) Find that the licensee is in violation of the terms of the license and impose liquidated damages; or

(5) In the case of a material violation of the license within the meaning of§ 113.132, declare the licensee in violation and revoke the license.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.132 REVOCATION.**

(A) In addition to all other rights and powers retained by the Town Council under this chapter or otherwise, the Council shall have the right to revoke the license and all rights and privileges of the licensee thereunder upon a recurring or protracted substantial breach of the license terms and conditions, or this chapter, which substantially affects the provision or quality of cable services, the ability of the town to effectively regulate the licensee, or the town's collection of all fees and charges. The power of revocation shall not be used if the breach is a result of force majeure.

(B) The breaches appearing on the list set forth below in this section shall be considered substantial breaches. The list is not exhaustive:

(1) Willful or grossly negligent repeated violations of this chapter, the license, or the representations made in the proposal process, or any rule, order, or regulation of the town made pursuant to this chapter;

(2) An attempt to dispose of any of the facilities or property of the system authorized by the license to prevent the town from acquiring it, as provided for herein;

(3) Attempt to evade any material provision of the license or practice any fraud or deceit upon the town or its subscribers or customers;

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(4) Failure to begin or complete cable system construction, reconstruction, or cable system extension as provided under the license;

(5) Failure to provide the types of categories of programming and cable services promised;

(6) Recurrent failures to restore service on the entire or a substantial portion of the cable system after 96 consecutive hours of interrupted service except cable services promised;

(7) Recurrent service outages of the entire cable system or a substantial portion thereof that, in the aggregate, exceed ten days in any 30-day period;

(8) Recurrent failures after notice by the Town Manager to provide service to any part of the licensee service area, consistent with § 113.061; and

(9) Unlawful acts or omissions by licensee or its servants, officials, agents, representatives, or employees, which result in the town's refusal to award a license to any other person, partnership, corporation, or other legal entity.

(C) (1) Before proceeding with a revocation hearing, the Town Manager shall make a written demand that the licensee comply.

(2) If a violation by the licensee continues for a period beyond that set forth in the written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Town Council may revoke the license as provided in this section.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.133 CONTINUITY OF SERVICE MANDATORY.**

(A) It shall be the right of all subscribers to continue receiving cable service insofar as their financial and other obligations to a licensee are honored.

(B) If the license terminates, the licensee shall cooperate with the town to ensure continuity of cable service to all subscribers for a period not to exceed 90 days. Said period may be extended by mutual agreement between the town and the licensee. During such period, the licensee shall be entitled to the revenues for any period during which it operates the cable system.

(C) If the licensee fails to operate the cable system for 96 consecutive hours without prior approval of the town or without just cause, the town may, at its option, operate the cable system or designate an operator until such time as licensee restores cable services under conditions acceptable to the town or a new permanent operator is selected. If the town is required to fulfill this obligation for a licensee, the licensee shall reimburse the town for all reasonable costs or damages that are the result of the licensee's failure to perform.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.134 FAILURE OF TOWN TO ENFORCE A LICENSE; NOW AIYER OF THE TERMS THEREOF.**

A licensee shall not be excused from complying with any of the terms and conditions of a license or this chapter by any failure of the town upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.135 WAIVERS.**

(A) Any provision of this chapter may be waived, at the sole discretion of the town, by resolution of the Town Council.

(B) The licensee may submit a request for waiver to the Town Council at any time during the license term. Such request for waiver may, at the sole discretion of the Town Council, be set for public hearing and a decision shall be made within 120 days following its submission.

(C) The Town Council may authorize the economic, technical, or legal evaluation of such licensee's waiver request and the licensee shall be required to reimburse the town for all expenditures incurred by the town in connection with such evaluation. The town may require that the licensee deposit with the town an amount estimated by the town to cover the town's expenditures incurred in connection with such evaluation.

(D) This section is enacted solely for the convenience and benefit of the town and shall not be construed in such a manner as to create any right or entitlement for the licensee.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.136 VALIDITY OF LICENSE.**

The licensee shall acknowledge, as a condition of acceptance of a license, that licensee was represented throughout the negotiations of any license award or renewal by its own attorneys and had opportunity to consult with its own attorneys about its rights and obligations regarding the license.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.137 CONSTRUCTION BOND.**

(A) (1) Within 30 days after the award of a license requiring construction or reconstruction of the cable system, a licensee shall obtain and maintain throughout the period of system construction and/or reconstruction, at its cost and expense, and file with the Town Clerk, a corporate surety bond issued by a company authorized to do business in the state, and found acceptable by the Town Attorney, in the amount of \$20,000 solely for the purpose of guaranteeing the timely construction and/or reconstruction of the cable system and the safeguarding of private property during construction and/or reconstruction.

After one-half of the cable system is constructed or reconstructed, the licensee may reduce the construction bond to \$10,000 until construction or reconstruction of the cable system is complete. Upon completion of the construction or reconstruction of the cable system, a construction bond shall no longer be required.

(2) The bond shall provide, but not be limited to, the following condition. There shall be recoverable by the town, jointly and severally from the principal and surety, any and all damages, losses, or costs suffered by the town resulting from the failure of a licensee to satisfactorily complete any required construction and/or reconstruction of its cable system throughout the license area pursuant to the terms and conditions of this chapter and such licensee's license.

(B) Any extension of the prescribed construction or reconstruction time limit must be authorized by the town. The construction bond shall be available throughout any such extension period.

(C) The construction bond shall be terminated only after the Town Council finds that a licensee has satisfactorily completed initial construction and activation or reconstruction of its cable system pursuant to the terms and conditions of this chapter and such licensee's license.

(D) The rights reserved to the town with respect to the construction bond are in addition to all other rights of the town, whether reserved by this chapter or authorized by law, and no action, proceeding, or exercise of a right with respect to such construction bond shall affect any other rights the town may have.

(E) The construction bond shall contain the following endorsement. It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not to renew be stated by the surety until 60 days after receipt by the town, by registered mail, or written notice of such intent to cancel or not to renew.

(Ord. 2003-07, passed 9-25-2003)

### **§ 113.138 MISCELLANEOUS PROVISIONS.**

(A) When not otherwise prescribed herein, all matters herein required to be filed with the town shall be filed with the office of the Town Clerk.

(B) Neither licensee nor any of its officers or employees shall receive referral fees or gratuities from any television or radio sales or repair business.

(C) Unless otherwise provided for in this chapter, all notices that the town may give to a licensee or that a licensee may give to the town shall be given in writing and may be given by certified first class mail, postage prepaid addressed to licensee's most recent address on file with the town and addressed to town. Such notices, when sent by mail and if received, shall be deemed given one day after deposit in the U.S. mail.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.139 FORCE MAJEURE.**

With respect to any provision of this chapter or any license granted pursuant hereto, the violation or noncompliance with which could result in the imposition of a financial penalty, liquidated damages, forfeiture, or other sanction upon a licensee, such violation or noncompliance shall be excused where such violation or noncompliance is the result of acts of God, war, civil disturbance, strike or other labor unrest, or similar events, the occurrence of which was not reasonable foreseeable by licensee and is beyond its reasonable control.

(Ord. 2003-07, passed 9-25-2003)

**§ 113.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person violating any part of§ 113.016 shall be guilty of a Class 1 Misdemeanor.

(2) Any person violating any part of§ 113.016 shall also be subject to any fees required in this chapter as though it were a licensee.

(Ord. 2003-07, passed 9-25-2003)





**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**

**131. ALCOHOL AND DANGEROUS SUBSTANCES**



## CHAPTER 130: GENERAL OFFENSES

### Section

- 130.01 Interference with religious, cultural, civic, or other events
- 130.02 Dangerous constructions
- 130.03 Excavations to be covered
- 130.04 Explosives
- 130.05 Fences - barbed wire or electric
- 130.06 Curfew
- 130.07 Noise
- 130.08 Obstruction of view
- 130.09 Offensive business ~~delete this section~~
- 130.10 ~~09~~ Offensive premises
- 130.11 ~~10~~ Prostitution
- 130.12 ~~11~~ Searchlights
- 130.13 ~~12~~ Signs and banners
- 130.14 Spitting ~~delete this section~~
- 130.15 ~~13~~ Water flow upon streets prohibited
- 130.16 ~~14~~ Storage of refrigerators and the like

130.99 Penalty

### ***Cross-reference:***

*Fireworks, see Ch. 91*

*Health and sanitation, see Ch. 92*

### **§ 130.01 INTERFERENCE WITH RELIGIOUS, CULTURAL, CIVIC, OR OTHER EVENTS.**

(A) The following acts are hereby declared to be unlawful:

(1) Intentionally disturbing by any loud utterance or other unreasonable noise or otherwise interfering with the normal performance or progress of a play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event, whether on public or private property;

(2) Refusing to leave private property when asked to do so by the owner or other person with lawful authority or control of said property after intentionally creating an unreasonable disturbance or otherwise disrupting a play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event;

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(3) Deliberately blocking or otherwise unreasonably interfering with the progress or performance of a play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event;

(4) Continuing to take photographs, electronic images, or sound recordings on private property of a play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event after being given reasonable notice by the owner of the private property or one in lawful control of the private property that photography and sound recording is not allowed on the private property;

(5) The taking of photographs or electronic images in a public place (such as a street) where the person taking the photographs or electronic images is doing so in a manner to be offensive to the subject of the photograph or electronic image such as repeated light flashes from a camera, cell phone, or other device taken in such close proximity to cause fear or significant disturbance to the subject of the photograph or electronic image, or to disrupt the performance of the play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event; and

(6) Refusing to follow the lawful directions of a peace officer or other public official concerning walking, sitting, standing in or near a play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event where such refusal interferes, hinders, or causes disruption of the performance of the play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event.

(B) It is not the intent of the Town Council to infringe on the rights of anyone as set forth in the first amendment of the United States Constitution, nor is it their intent to pass any ordinance favoring or impeding any particular religious group in the free exercise of its religious beliefs; rather, it is the Town Council's intent to protect the safety of its residents and the public who are participating in or observing outdoor performance of a play, parade, march, pageant, ceremonial dance, or other religious, patriotic, or civic event.

(Ord. 2015-02, passed 2-12-2015) Penalty, see § 130.99

**§ 130.02 DANGEROUS CONSTRUCTIONS.**

It is unlawful for any person to maintain or allow any signs, billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety.

(1989 Code, § 12-1-2) Penalty, see § 130.99

**§ 130.03 EXCAVATIONS TO BE COVERED.**

(A) It is unlawful for any person to make any excavation or dig any hole, drain, or ditch in any highway or thoroughfare in the town without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation to protect the public during the day.

(B) It is unlawful for any person to maintain a well, cellar, pit, or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering, or protection of such excavation.

(1989 Code, § 12-1-3) Penalty, see§ 130.99

**§ 130.04 EXPLOSIVES.**

It is unlawful for any person within the limits of the town to blast or use gunpowder or other explosives without a permit from the Fire Chief or his or her designee in writing.

(1989 Code,§ 12-1-4) (Ord. 2010-02, passed 11-10-2010) Penalty, see§ 130.99

**§ 130.05 FENCES - BARBED WIRE OR ELECTRIC.**

(A) It is unlawful for any person to erect or maintain within the town any electric fence. Fences constructed in whole or in part of barbed wire are unlawful in all areas zoned residential under provisions of the zoning ordinance of the town. In other areas, barbed wire fencing shall be permitted only by special exception under provisions of said zoning ordinance and under the following conditions:

(1) The barbed portion of the fence shall be attached to the top offences which are constructed of permitted materials and reach a height of at least six feet prior to the beginning of the barbed wire section;

(2) A maximum of three strands of barbed wire may be used; and

(3) Barbs must be directed inward and upward.

(B) Any electric or barbed wire fence constructed contrary to the provisions of this section is a public nuisance and subject to abatement by order of the town court.

(1989 Code, § 12-1-5) Penalty, see§ 130.99

**§ 130.06 CURFEW.**

(A) It shall be unlawful for any juvenile under the age of 16 years of age to be, remain, or loiter in, about, or upon any place in the town away from the dwelling house or usual place of abode of the juvenile between the hours of 10:00p.m. to 5:00 a.m. of the following day; provided, that the provisions of this section do not apply to the juvenile when accompanied by his or her parent, guardian, or other adult person having the care, custody, or supervision of the juvenile; or where the juvenile is on an emergency errand; or where the juvenile is on reasonable, legitimate, and specific business or activity (including returning directly to home from legitimate religious celebrations and cultural events) directed or permitted by his or her parent, guardian, or other adult person who, by operation of law, has or should have had the care, custody, or supervision of the juvenile at the time of such violation.

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(B) It shall be unlawful for any juvenile 16 years of age or older and under the age of (change 13 18) years to be, remain, or loiter in, about, or upon any place in the town away from the dwelling house or usual place of abode of the juvenile between the hours of 12:00 a.m. to 5:00 a.m. Saturday, and 12:00 a.m. to 5:00 a.m. Sunday, and 10:00 p.m. on each Sunday through Thursday, inclusive, until 5:00 a.m. of the following day; provided, that the provisions of this section do not apply to the juvenile when accompanied by his or her parent, guardian, or other adult person having the care, custody, or supervision of the juvenile; or where the juvenile is on an emergency errand; or where the juvenile is on reasonable, legitimate, and specific business or activity (including returning directly to home from legitimate religious celebrations and cultural events) directed or permitted by his or her parent, guardian, or other adult person who, by operation of law, has or should have had the care, custody, or supervision of the juvenile at the time of such violation.

(C) Each violation of divisions (A) or (B) above shall constitute a separate offense.

**Remove section D below and insert codifiers recommended wording.**

(D) It shall be unlawful for the parent, guardian, or other adult person having the care, custody, or supervision of a juvenile to permit such juvenile to be, remain, or loiter in, about, or upon any place in the town away from the dwelling house or usual place of abode of said juvenile in violation of divisions (A) or (B) above; provided, that these provisions do not apply when the juvenile is an emancipated minor, or when the juvenile is accompanied by his or her parent, guardian, or other person having the care, custody, or supervision of the juvenile; or where the juvenile is on an emergency errand; or where the juvenile is on reasonable, legitimate, and specific business or activity (including returning directly to home from legitimate religious celebrations and cultural events) directed or permitted by his or her parent, guardian, or other person having the care, custody, or supervision of such juvenile.

#40 a) and b)

(D) This section does not apply to a minor who is: (1) Accompanied by the minor’s parent or guardian; (2) On an errand at the direction of the minor’s parent or guardian, without any detour or stop; (3) In a motor vehicle involved in interstate travel; (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop; (5) Involved in an emergency; (6) On the sidewalk abutting the minor’s residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor’s presence; (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor; (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or (9) Married or had been married or had disabilities of minority removed in accordance with state law. ....

(E) It shall not constitute a defense hereto that such parent, guardian, or other adult person who, by operation of law, has or should have had the care, custody, or supervision of such juvenile, coming within the provisions of divisions (A) or (B) above, did not have actual knowledge of the presence of such juvenile in, about, or upon any place in the town away from the dwelling house or usual place of abode of the juvenile, if the parent, guardian, or other adult person who, by operation of law, has or should have had the care, custody, or supervision of such juvenile, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of such juvenile.

(F) (1) In addition to any other powers he or she may have, any law enforcement officer who arrests a juvenile for violating any of the provisions of divisions (A) or (B) above is also hereby

empowered to demand of the parent, guardian, or other person having the care, custody, or supervision of such juvenile that such parent, guardian, or other person come and take said juvenile into custody.

(2) Should there be a failure of the parent, guardian, or other person to take custody of such juvenile, the officer may then be empowered to take such juvenile home.

(3) It shall be unlawful for any such parent, guardian, or other person having the care, custody, or supervision of said juvenile to fail or refuse to take such juvenile into custody after such demand is made upon him or her.

**Guadalupe - General Offenses**

(G) Any juvenile who violates the provisions of divisions (A) or (B) above shall be guilty of a misdemeanor, and in addition to any other available punishment, proceedings may be taken in accordance with and pursuant to the juvenile code as contained in the A.R.S. §§ 8-201 et seq. (1989 Code, § 12-1-6) (Ord. 2003-08, passed 9-25-2003; Ord. 2010-01, passed 4-8-2010) Penalty, see § 130.99

**§ 130.07 NOISE.**

(A) It is hereby declared to be a public nuisance, and it is unlawful for any person, firm, or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store, or any place of public amusement, entertainment, or accommodation, to play or permit to be played any music or musical instrument whether played by individuals, orchestra, radio, phonograph, music box, or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.

(B) It is unlawful to play, operate, or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier, or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the Chief of Police to operate any such vehicle so equipped.

(1989 Code, § 12-1-7) Penalty, see § 130.99

**Add section (C)**

**130.07 NOISE Add Section (C)** The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following: (1) The volume of noise; (2) The intensity of the noise, (3) Whether the nature of the noise is usual or unusual, (4) Whether the origin of the noise is natural or unnatural; (5) The volume and intensity of the background noise, is any; (6) The proximity of the noise to residential sleeping facilities; (7) The nature and zoning of the area within which the noise emanates; (8) The density of the inhabitation of the area within which the noise emanates; (9) The time of day or night the noise occurs; (10) The duration of the noise; (11) Whether the noise is recurrent, intermittent or constant; (12) Whether the noise is produced by a commercial or noncommercial activity; (13) Whether it is a pure tone noise, or (14) Whether it is an impulse noise. #41

**§ 130.08 OBSTRUCTION OF VIEW.**

It is unlawful for any person to maintain or allow any tree, hedge, billboard, or other obstruction which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(1989 Code, § 12-1-8) Penalty, see § 130.99

**§ 130.09 OFFENSIVE BUSINESS. (Delete this section and renumber sections)**

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep, or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain, or carry on any other business or occupation offensive to the senses or prejudicial to the public health within the limits of the town.

(1989 Code, § 12-1-9) Penalty, see § 130.99



**§ 130.10 OFFENSIVE PREMISES.**

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him or her, or any cellar, privy, vault, pool, sewer, or private drain therein to become nauseous, foul, or offensive to the senses or prejudicial to the public health or comfort.

(1989 Code, § 12-1-10) Penalty, see§ 130.99

**§ 130.11 PROSTITUTION.**

It is unlawful for any person to practice prostitution, to patronize a prostitute, or to solicit any person to visit or patronize a prostitute or place of prostitution.

(1989 Code, § 12-1-11) Penalty, see§ 130.99

**§ 130.12 SEARCHLIGHTS.**

It is unlawful for any person to operate within the town any incandescent or arc-type searchlight, beacon light or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance in excess of one-half mile unless permission is obtained from the Council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

(1989 Code, § 12-1-12) Penalty, see§ 130.99

**§ 130.13 SIGNS AND BANNERS.**

It is unlawful for any person to place any banner or sign upon any streetlight pole, traffic signal pole, or utility pole within the town without first obtaining authorization from the Council.

(1989 Code, § 12-1-13) Penalty, see§ 130.99

**§ 130.14 SPITTING. (Delete this section and renumber remaining sections)**

It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the town or upon any public path, by-way, or highway, or in or on any public ground or park or upon the floor or interior of any public building in the town.

(1989 Code, § 12-1-14) Penalty, see§ 130.99

**§ 130.15 WATER FLOW UPON STREETS PROHIBITED.**

(A) It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic or to cause damage to the public streets of the town.

(B) It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch, or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him or her.

(1989 Code, § 12-1-15) Penalty, see § 130.99

### **§ 130.16 STORAGE OF REFRIGERATORS AND THE LIKE.**

It is unlawful for any person to leave or permit to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned building, dwelling, or other structure, under the control of any person, and in a place accessible to children, any abandoned, unattended, or discarded ice box, refrigerator, or other container which has an air-tight door or lid, snap lock, or other locking device which may not be released from the inside, without first removing such door or lid, snap lock, or other locking device from such ice box, refrigerator, or container.

(Ord. 98-04, passed 3-26-1998) Penalty, see § 130.99

### **§ 130.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Anyone convicted of a violation of any portion of § 130.01 shall be guilty of a Class 1 Misdemeanor and may be subject to: .

- (1) A fine not to exceed \$2,500 plus any applicable surcharges;
- (2) Imposition of a jail sentence not to exceed six months; and/or
- (3) If the court deems it appropriate upon sentencing, the court may impose probation.

(C) Any person found guilty of violating any provision of § 130.06 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not to exceed \$2,500 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein above described.

(D) Any person found guilty of violating § 130.16 shall be guilty of a Class 1 Misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein described.

(Ord. 97-02, passed 3-13-1997; Ord. 98-04, passed 3-26-1998; Ord. 2003-08, passed 9-25-2003; Ord. 2015-02, passed 2-12-2015)



## CHAPTER 131: ALCOHOL AND DANGEROUS SUBSTANCES

## Section

*Alcohol Regulations*

131.01 Alcohol in vehicles

131.02 Drinking alcoholic beverages in or around commercial establishments

*Vapor-Releasing Substances*

131.15 Definitions

131.16 Possession of vapor-releasing substances

131.99 Penalty

**ALCOHOL REGULATIONS****§ 131.01 ALCOHOL IN VEHICLES.**

(A) No person shall drink any alcoholic beverage while in a motor vehicle upon a street or highway within the town limits.

(B) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a street or highway within the town limits, any bottle, can, or other receptacle containing alcoholic beverages which has been opened, or the seal broken or the contents of which have been partially removed.

(C) No person shall have in his or her possession, while in a motor vehicle upon a street or a highway within the town limits, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, the seal broken, or the contents of which have been partially removed.

(D) It is unlawful for the registered owner of any motor vehicle, or the driver if the registered owner is not then present in the vehicle, when such vehicle is upon a street or highway within the town limits, to have any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, the seal broken, or the contents of which have been removed, unless such container is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or



passengers, if the vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers.  
(1989 Code, § 12-3) Penalty, see§ 131.99

**§ 131.02 DRINKING ALCOHOLIC BEVERAGES IN OR AROUND COMMERCIAL ESTABLISHMENTS.**

No person is allowed to consume any alcoholic beverages with or without owner's or lessor's permission from an open container in any commercial establishment, free standing or within a center, that does not have an on-sale liquor license from the state and town.  
(Ord. 90-03, passed 6-28-1990) Penalty, see§ 131.99

***VAPOR-RELEASING SUBSTANCES***

**§ 131.15 DEFINITIONS.**

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

***MINOR.*** An individual younger than the "legal drinking age" as defined by the state. This age is 21 years as of date of passage of this section.

***VAPOR-RELEASING SUBSTANCE CONTAINING TOXIC SUBSTANCE.*** Paint or varnish dispensed by the use of aerosol spray, or any glue, which releases vapors or fumes containing acetone, volatile acetates, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene, volatile ketones, isophorone, chloroform, methylene chloride, mesityl oxide, xylene, cumene, ethylbenzene, trichloroethylene, mibk, miak, rnek or diacetone alcohol or isobutyl nitrite.  
(Ord. 90-06, passed 9-13-1990)

**§ 131.16 POSSESSION OF VAPOR-RELEASING SUBSTANCES.**

(A) It is unlawful for any minor to possess, breathe, inhale, or drink a vapor-releasing substance containing a toxic substance.

(B) It is unlawful for any minor to sell, transfer, or offer to sell or transfer a vapor-releasing substance containing a toxic substance if such a person is not at the time of sale, transfer, or offer, employed by or engaged in operating a commercial establishment at a fixed location regularly offering

such substance for sale and such sale, transfer, or offer is made in the course of employment or operation.

(Ord. 90-06, passed 9-13-1990) Penalty, see§ 131.99

**§ 131.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) If a minor is arrested for the possession, inhalation, or consumption of a vapor-releasing substance containing a toxic substance and is not charged with any other offense, the arresting officer may prepare a written notice or citation to appear in either juvenile court or municipal court depending on the minor's age. Said notice or citation shall contain the name and address of the minor, the offense charged, and the time and place the minor shall appear in court.

(2) In the event the minor is under 18 years of age, the arrested minor, in order to secure release, shall give his or her written promise to appear in juvenile court by signing at least one copy of the written notice prepared by the arresting officer. The officer shall deliver a copy of the notice to the minor promising to appear. The officer shall immediately release the person from custody.

(3) In the event the minor is over 18 years of age, the matter shall be handled as any other misdemeanor.

(4) The juvenile court shall not dispose of a citation for the possession of a vapor-releasing substance unless the parent, guardian, or custodian of the minor appears in court with the minor at the time of disposition of the charge.

(5) A minor, under the age of 18 years, and upon finding of guilt by a judge, may be subject to one or more of the penalties listed:

- (a) Reprimand;
- (b) Suspension of driving privileges or restriction of same for not more than 90 days;
- (c) Order the payment of not less than \$100 or not more than \$250 to the public agency processing the violation;
- (d) Order the performance of not less than 80 hours of community service under the jurisdiction of the court; or
- (e) Order the matter transferred to an adult court.

**Guadalupe - General Offenses**

(6) Any minor over the age of 18 years and found violating this section shall be guilty of a Class 2 Misdemeanor.

(Ord. 90-06, passed 9-13-1990)



TITLE XV: LAND USAGE

Chapter

- 150. BUILDING CODES
- 151. HOUSING
- 152. SUBDIVISION REGULATIONS
- 153. STRAW BALE STRUCTURES
- 154. ZONING



## CHAPTER 150: BUILDING CODES

### Section

#### *Adoption of Building Code*

- 150.01 Adoption of Uniform Building Code
- 150.02 Conformance with zoning ordinance
- 150.03 Amendment to Uniform Building Code

#### *Additional Codes*

- 150.15 Electrical Code
- 150.16 Mechanical Code
- 150.17 Plumbing Code
- 150.18 Building official
- 150.19 Building permit and fees
- 150.20 Uniform Code for the Abatement of Dangerous Buildings
- 150.21 Dwelling unit standards
  
- 150.99 Penalty

### ***ADOPTION OF BUILDING CODE***

#### **§ 150.01 ADOPTION OF UNIFORM BUILDING CODE.**

(A) The certain code entitled Uniform Building Code. (~~Remove 1997 insert~~ 2012 Edition, (UBC 2012) copyrighted by the International Conference of Building Officials is hereby adopted as the Uniform Building Code of the town and made a part of this subchapter, the same as though said code were specifically set forth in full herein; and at least three copies of said code shall be filed in the Town Clerk's office and kept available for public use and inspection.

(B) The fee schedule for construction set forth in Table 1-A of the(~~Remove 1997 insert~~ 2012 Uniform Building Code is not adopted and instead the following fees for residential and commercial construction are hereby adopted as set forth in the following table.

## Guadalupe - Land Usage

<i>Total Valuation</i>	<i>Fee</i>
\$1 to \$500	\$47 <b>change to \$50</b>
\$501 to \$2,000	\$47 <b>change to \$50</b> for the first \$500 plus \$6.10 <b>\$5</b> for each additional \$100 or fraction thereof to and including \$2,000
\$2001 to \$25,000	\$138.50 <b>change to \$150</b> for the first \$2,000 plus \$28 <b>\$21.00</b> for each additional \$1,000 or fraction thereof to and including \$25,000
\$25,001 to \$50,000	\$782.50 <b>change to 850</b> for the first \$25,000 plus \$20.20 <b>\$19</b> for each additional \$1,000 or fraction thereof to and including \$50,000
\$50,001 to \$100,000	\$1,287.50 <b>change to \$1450</b> for the first \$50,000 plus \$14 <b>\$10</b> for each additional \$1,000 or fraction thereof to and including \$100,000
\$100,001 to \$500,000	\$2,687.50 <b>change to \$2150</b> for the first \$100,000 plus \$11.20 <b>\$8</b> for each additional \$1,000 or fraction thereof to and including \$500,000
\$500,001 to \$1,000,000	\$7,167.50 <b>change to \$6000</b> for the first \$500,000 plus \$9.50 <b>\$6</b> for each additional \$1,000 or fraction thereof to and including \$1,000,000
\$1,000,001 and up	\$11,917.50 <b>change to \$9700</b> for the first \$1,000,000 plus \$7.30 <b>\$4.</b> for each additional \$1,000 or fraction thereof

<b><i>Other Inspections and Fees</i></b>	
Inspections outside of normal business hours, minimum charge = 2 hours	\$47 <b>\$50</b> per hour*
Reinspection fees assessed under the provisions of § 305.8	\$47 <b>\$50</b> per hour*
Inspections for which no fee is specifically indicated, minimum charge = 1/2 hour <b>1 hour</b>	\$47 <b>\$120</b> per hour*
Additional plan review required by changes, additions, or revisions to plans , <b>remove</b> minimum charge = 1/2 hour)	\$47 <b>\$120</b> per hour*
For use of outside consultants for plan checking and inspections or both	Actual costs**
*Or the total hourly cost to the town, whichever is greater. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.	
**Actual costs include <b>consultant, town</b> administrative and overhead costs <b>at a rate of \$100 per hour with a minimum charge of one hour or normal plan review fees, whichever is greater.</b>	

(1989 Code, § 7-1-1) (Ord. 2001-01, passed 1-25-2001; Ord. 2006-01, passed 3-9-2006; Ord. 2012-02, passed 7-27-2012)

### § 150.02 CONFORMANCE WITH ZONING ORDINANCE.

Whenever a building permit is issued to any person or entity and a building inspection performed, such building must conform to the provisions of the zoning ordinance of the town in addition to the provisions of this chapter.

(1989 Code, § 7-1-2)

§ 150.03 AMENDMENT TO UNIFORM BUILDING CODE.

Section 2405 of the Uniform Building Code is amended to read as follows:

(a) GENERAL. Masonry of unburned clay units shall not be used in any building more than two (2) stories in height. 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 (24) feet apart, are allowed a minimum thickness of twelve (12) inches for single story and minimum thickness of sixteen (16) inches for the bottom story of a two (2) story with the upper story of a two (2) story allowed a minimum thickness of twelve (12) inches. Interior bearing walls are allowed a minimum thickness of eight (8) inches.

(b) COMPRESSNE STRENGTH. The units shall have an average compressive strength of three hundred (300) pounds per square inch when tested in accordance with A.S.T.M. C67. One sample out of five may have a compressive strength of not less than two hundred and fifty (250) pounds per square inch.

(c) MODULE OF RUPTURE. The unit shall average fifty (50) pounds per square inch in modulus of rupture.

(d) SOIL. The soil used shall contain not less than twenty-five (25) percent and not more than forty-five (45) percent 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 two (2) percent of water-soluble salts.

Most clayey loams, except those with a high clay content, are suitable, but it is not practicable to make a selection on the basis of soil analysis only. Soils having a high clay content shrink or crack badly when drying, and sandy soils do not have sufficient bonding material to prevent crumbling.

Neither of these soils should be used alone for brick, but a very good building material can be obtained by mixing the two soils together in proportions that will overcome the undesirable qualities of each. The best way to determine the fitness of a soil is to make a sample brick and allow it to cure in the open, protected from moisture. It should dry without serious warping or cracking.

(e) CLASSES OF ADOBE.

1. Treated Adobes. The term 'treated' is defined to mean adobes 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 (h) below. Exterior walls constructed of treated adobe require no additional protection. Stucco is not required. In order for the wall to so comply, the mortar must be of adobe soil treated with an additive to make the mortar comply with the same water absorption requirement in paragraph (h) below.

2. Untreated Adobes. Untreated adobes are adobes which do not meet the water absorption specifications of paragraph (h) 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 (h) below. Exterior walls of untreated adobe are allowed but must comply with paragraph (o) Requiring Portland Cement plaster applied to the outside. Use of untreated adobes is prohibited within eight (8) inches above the finished floor grade. Treated adobes may be used for the first eight (8) inches above finished floor grade. Mortar must be adobe soil (either treated or untreated).

(f) **SAMPLING.** Each of the tests prescribed in this Section shall be applied to five sample units selected at random from each five thousand (5,000) bricks to be used.

(g) **MOISTURE CONTENT.** The moisture content of the unit shall be not more than four (4) percent by weight.

(h) **ABSORPTION.** A dried four-inch (4") cube cut from a sample unit shall absorb not more than two and one-half (2 1/2) percent moisture by weight.

(i) **SHRINKAGE CRACKS.** No units shall contain more than three (3) shrinkage cracks, and no shrinkage crack shall exceed three inches (3") in length or one eighth inch (1/8") in width.

(j) **USE.** No adobe shall be laid in the wall for at least three (3) weeks after making, dependent on weather conditions.

(k) **FOUNDATIONS.** Adobes shall not be used for foundations 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 walls above. All foundation walls which support adobe units shall extend to an elevation, not less than six inches (6") above the finish grade. The foundation trench shall be excavated to a depth of at least eighteen inches (18") below natural grade.

Foundation walls shall be at least as thick as the exterior wall as specified in Section 2405 (l): 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.

Either the footing or the foundation (stem) wall must be reinforced with a minimum of two (2) No. 4 reinforcing rods.

(l) **EXTERIOR WALLS.** All walls of adobe (treated or untreated) shall not have thicknesses less than that allowed in paragraph (a) above. Mortar shall be in accordance with paragraph (e) 1 and (e) 2 above, depending on the class of adobe being used. All adobe brick shall be laid up with full slush (bed) joints and shall be bonded (overlapped) no less than four inches (4"). Walls of treated adobe which do not require a protective outer coating must also be laid up with full head (end) joints. All exterior adobe walls shall be topped with a continuous belt course or tie beam (except patio walls less than six feet (6') high above the stem). At the time of laying, all units shall be clean and damp at the surface. Parapet

walls bearing on wooden tie beams shall be nonstructural and shall not exceed thirty-six inches (36") in height.

No adobe bricks shall be used for isolated piers, porch columns, or wall section of less than twenty-eight inches (28") by twelve inches (12"). A minimum twelve inch (12") wall section will be permitted between openings provided a continuous lintel of concrete or timber be installed spanning both openings and wall section.

(m) **CONCRETE TIE BEAM.** Shall be minimum size six inch (6") by width of wall up to a ten inch (10") width. For walls thicker than ten inches (10"), a ten inch (10") tie beam will suffice. All concrete tie beams shall be reinforced with a minimum of two (2) No. 4 reinforcing rods each floor and ceiling plate line.

(n) **WOOD LINTELS OR TIE BEAMS.** Shall be minimum size six inches (6") by wall width up to a ten inch (10") width. For walls thicker than ten inches (10") a tie beam of ten inch (10") thickness shall suffice. The wooden tie beam shall be overlapped, or spliced, at least six inches (6") at all joints. All joints shall have a wall bearing of at least twelve inches (12"). Wood tie beams may be solid in the six inch (6") dimension or may be built up by applying layers of lumber. No layer shall be less than one inch (1 "). Wood joists, vigas, or beams shall be substantially fastened to the wood tie beam with large nails or large screws. All lintels, wood or concrete, in excess of nine feet (9') shall have specific approval of the Building Official.

1. All wooden structural members embedded in adobe walls shall be separated therefrom by a waterproof membrane equal to Type 15 felt (15 pound felt).

(o) **PLASTERING.** All untreated adobe shall have all exterior walls plastered on the outside with Portland Cement plaster, minimum thickness three-quarter inch (3/4") in accordance with Chapter 47. Protective-coatings other than plaster are allowed, providing such coating is equivalent to Portland Cement plaster in protecting the untreated adobes against deterioration and/or loss of strength due to water. Metal wire mesh minimum twenty (20) gauge by one inch (1 ") 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") apart. All exposed wood surfaces in adobe walls shall be treated with an approved wood preservative before the application of wire mesh. (Exception; Exterior patio, yard walls, and the like, need not have Portland Cement coating.)

(p) **FLOORS AND ROOFS.** May be constructed of wood, the sizes and spans to be in accordance with Chapter 25.

(q) **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.

(1989 Code, § 7-1-3) (Ord. 2001-01, passed 1-25-2001)

*ADDITIONAL CODES***§ 150.15 ELECTRICAL CODE.**

The certain Code entitled National Electrical Code, (**Remove 1997 insert) 2012**) , (NEC (**Remove 1997 insert) 2012**) copyrighted by the National Fire Protection Association is hereby adopted as the Electrical Code of the town and made a part of this chapter the same as though said Code were specifically set forth in full herein, and at least three copies of said Code shall be filed in the office of the Clerk and kept available for public use and inspection.

(1989 Code, § 7-2) (Ord. 2001-01, passed 1-25-2001)

**§ 150.16 MECHANICAL CODE.**

The certain Code entitled Uniform Mechanical Code, (**Remove 1997 insert) 2012** Edition, (UMC (**Remove 1997 insert) 2012** ) copyrighted by the International Conference of Building Officials is hereby adopted as the Uniform Mechanical Code of the town and made a part of this chapter the same as though said Code were specifically set forth in full herein, and at least three copies of said Code shall be filed in the office of the Clerk and kept available for public use and inspection.

(1989 Code, § 7-3) (Ord. 2001-01, passed 1-25-2001)

**§ 150.17 PLUMBING CODE.**

The certain Code entitled Uniform Plumbing Code, (**Remove 1994 insert) 2012** Edition, (UPC (**Remove 1994 insert) 2012**) copyrighted by the International Conference of Building Officials is hereby adopted as the Uniform Plumbing Code of the town and made a part of this chapter the same as though said Code were specifically set forth in full herein, and at least three copies shall be filed in the office of the Clerk and kept available for public use and inspection.

(1989 Code, § 7-4) (Ord. 2001-01, passed 1-25-2001)

**§ 150.(change 18 to) 19 BUILDING OFFICIAL. (change section to 19 and move 150.20 Uniform Code for Abatement of Dangerous Buildings to this section)**

The building official and administrative authority, as such may be referenced in any section of this chapter for all matters pertaining to any building, plumbing, electrical, or any other inspections, shall be vested in the office of the manager, provided that the Council may authorize such deputies as needed to perform any inspection work or other functions that may be required by this chapter.

(1989 Code, § 7-5)



**§ 150.(change section from 19 to) 20 BUILDING PERMIT AND FEES.**

Prior to constructing any improvement which is either new construction or which involves more than 25% of any existing structure, a building permit must be obtained from the (remove Town Manager and insert) **Building Inspector**. The (remove Town Manager and insert) **Building Inspector** shall review all plans for any improvement prior to issuing a building permit and shall collect a fee for such permit. The building permit fee shall be computed according to a schedule to be adopted from time to time by the Council.

(1989 Code, § 7-6)

**§ 150.(change section from 20 to) 18 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS.**

The certain document known as "The Uniform Code for the Abatement of Dangerous Buildings - 1991 Edition", three copies of which are on file in the office of the Town Clerk, which document was made a public record by Res. 95-17, is hereby referred to, adopted, and made a part hereof as if fully set out in this section.

(Ord. 95-02, passed 8-24-1995) Penalty, see§ 150.99

**§ 150.21 DWELLING UNIT STANDARDS.**

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

**DWELING UNIT.** Includes a room or suite of two or more rooms that is designed for or is occupied by one family doing its own cooking therein and having only one kitchen. **DWELLING UNIT** includes a manufactured home, a modular home, or a site-built home which is of conventional construction (a building constructed pursuant to the Uniform Building Code, as adopted by the town, on a permanent site using individual structural components and requiring normal phase inspection by the town building official).

**MANUFACTURED HOME.** Includes a structure (built in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, (insert) 42 U.S.C. §§ 5401 eq seq. and Title VI of the Housing and Community Development Act of 1974, Pub. Law 93-383,(insert) 42 U.S.C. §§ 13611 et seq. as amended by Pub. Laws 95-128, 95-557, 96-153, and 96-339), transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. #48 a)

**MOBILE HOME.** Includes a structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities except recreational vehicle and factory-built buildings (remove (A.R.S. § 41-2142(25)) (and insert) (A.R.S. § 41-4001(25))).

## Guadalupe - Land Usage

**MODULAR BUILDING.** A factory-built residential or nonresidential building including a dwelling unit or habitable room thereof which is wholly or in substantial part manufactured at an off-site location to be assembled on-site, except that it does not include a manufactured home, recreational vehicle, or mobile home. (remove as defined in this section (A.R.S. § 41-2141(14)). (Because this has been repealed) #48 b)

**RECREATIONAL VEHICLE.** Includes (remove (A.R.S. § 41-2142(29)) and insert:) (A.R.S. § 41-4001(30)) vehicular type unit which #48 b)

is:

(a) A portable camping trailer mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold for camping;

(b) A motor home designed to provide temporary living quarters or recreational, camping, or travel use and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle;

(c) A park trailer/model built on 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;

(d) 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 and has trailer area of less than 320 square feet. This division (d) includes fifth-wheel trailers. If a unit requires a size or weight permit, it shall be manufactured to the standards for park trailers in § 119.5 of the American National Standards Institute (ANSI) Code; or

(e) 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.

(B) It is unlawful to install, transport, or construct any dwelling unit which does not comply with the provisions of this section, or with applicable zoning regulations, or with applicable local building codes, or with the requirement that the owner or the licensed contractor obtain a building permit prior to construction, installation, or transportation of the unit. Installations or construction not in compliance with these provisions must be brought into compliance. An investigation/penalty fee equivalent to the permit application fee shall be assessed against the applicant for violations.

(C) Except as may be provided by an approved development plan within a Planned Development Zoning District, no dwelling unit shall be installed or constructed which has a livable space less than 24 feet, excluding carports, garages, and porch areas.

(D) The roof of a dwelling unit proposed for construction or installation shall have a pitch of not less than three feet of vertical rise for each 12 feet of horizontal run, or have a roof parapet, mansard shape, or other similar roofline treatment which screens the roof from street view. If a sloping roof is

provided, the roof shall provide material overhang of 16 inches and be covered with a roofing material commonly used in site-built residential construction other than continuous rolled material.

(E) Except as may be provided by an approved development plan within a Planned Development Zoning District, a dwelling unit shall be oriented on a parcel so that the wide side of the dwelling unit faces the narrow street frontage and so that all setback requirements have been met. The Board of Adjustment has the authority to hear variance requests for those dwelling units that cannot comply with the setback requirements.

(F) The exterior building facade of a dwelling unit including the trim, doors, windows, roof facias, but excluding patio covers and detached storage buildings, shall consist of wood, stucco, horizontal siding, brick masonry veneer, or other facsimile of a building material commonly used in site-built residential construction; provided, however, that corrugated or reflected metal siding, other than aluminum lap siding, shall be prohibited.

(G) If the dwelling unit has steps leading to any entry visible from any street, the steps and any enclosure surrounding the steps shall be attached to a permanent foundation and designed and constructed as an integral part of the exterior of the dwelling unit.

(H) Approved number or addresses shall be provided by the property owner for all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property and shall contrast with their background and be minimum of four inches in height.

(I) Dwelling units proposed for installation or construction shall be set on a permanent foundation of concrete or masonry for the purpose of a permanent installation. Dwelling units shall be valued and assessed for tax purposes in the same manner. The homeowner shall execute and file all documents necessary to comply with this requirement. This foundation requirement may be modified by the building official in consultation with the Town Engineer/Flood Plan Administrator in order to comply with flood plan requirements.

(J) Manufactured homes proposed for installation shall have affixed thereto either a State of Arizona insignia of approval as defined by A.R.S. Title 41, Chapter 16 or a decal certifying that the dwelling unit has been inspected and constructed in accordance with the requirements of the U.S. Department of Housing and Urban Development (HUD) in effect at the date of manufacture wherein such date shall not have been prior to five years from the date of installation.

(K) Manufactured homes proposed for installation shall have the hitch/tongue, axles, and wheels removed at the time of installation.

(L) This section shall not prohibit the continued occupancy of non-certified mobile/manufactured homes currently located and occupied as a private residence within the city. A parcel currently developed with a mobile/manufactured home may have its units replaced only with another unit that is in compliance with relevant provisions of this section. Division (C) above shall not be applicable to manufactured homes proposed for installation in manufactured home parks approved prior to the effective date of this section.

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(M) Modifications to or repairs of a mobile/manufactured home shall be prohibited unless such modifications are made pursuant to applicable federal, state, or local regulations. The building official may inspect a manufactured home proposed for installation only for gross modification. **GROSS MODIFICATIONS** included are those modifications which can be observed from a visual inspection of the interior and exterior of the subject unit, or which become apparent to the building official while performing those safety and installation inspections and test as are required by an intergovernmental agreement between the town and the state's Department of Building and Fire Safety, Office of Manufactured Housing executed on \_\_\_\_\_, or as such agreement is subsequently amended or adopted. When such violators or gross modifications are made known, it shall be the duty of the building official to order modifications to be brought into compliance before the manufactured unit is occupied. Repairs or modifications which exceed 50% of the unit's floor area, wall area, or roof area shall be prohibited and the necessity for said repairs shall be grounds for removal of the manufactured unit. Modifications or repairs, which are non-structural and do not adversely affect any structural member or any part of the manufactured home, may be made with the same materials of which the manufactured home is constructed.

(Ord. 2001-09, passed 11-8-2001) Penalty, see§ 150.99 #48 c) needs date

**§ 150.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person found guilty of violating any provision of the Uniform Code for the Abatement of Dangerous Buildings (see§ 150.20) shall be guilty of a Class 1 Misdemeanor subject to a maximum fine of \$2,500 and imprisonment for a maximum of six months for each violation. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

(Ord. 95-02, passed 8-24-1995)

## CHAPTER 151: HOUSING

### Section

#### *Fair Housing*

- 151.01 Policy
- 151.02 Definitions
- 151.03 Unlawful practice
- 151.04 Discrimination in the sale or rental of housing
- 151.05 Discrimination in the financing of housing
- 151.06 Discrimination in the provision of brokerage services
- 151.07 Exemption
- 151.08 Administration
- 151.09 Education and conciliation
- 151.10 Enforcement
- 151.11 Investigations; subpoenas; giving of evidence
- 151.12 Enforcement by private persons
- 151.13 Interference, coercion, or intimidation
- 151.14 Prevention of intimidation in fair housing cases

#### *Housing Authority*

- 151.25 Created; composition; terms of office
- 151.26 Advisory Committee
- 151.27 Powers and duties
- 151.28 Additional powers and duties

#### *Low Rent Housing*

- 151.40 Definitions
- 151.41 Projects; federal funds
- 151.42 Cooperation for vacating or dedicating streets; zoning
- 151.43 Contract with bond holders; amendment of chapter

- 151.99 Penalty

#### ***Cross-reference:***

*Subdivision regulations, see Ch. 152*

*Zoning, see Ch. 154*

***FAIR HOUSING*****§ 151.01 POLICY.**

It is the policy of the town to provide, within constitutional limitations, for fair housing throughout the town.

(1989 Code, § 11-1-1)

**§ 151.02 DEFINITIONS.**

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

***DISCRIMINATORY HOUSING PRACTICE.*** An act that is unlawful under §§ 151.04, 151.05, or 151.06.

***DWELLING,*** Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

***FAMILY.*** Includes a single individual.

***PERSON.*** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

***TO RENT.*** To lease, sublease, let, or otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(1989 Code, § 11-1-2)

**§ 151.03 UNLAWFUL PRACTICE.**

(A) Subject to the provisions of § 151.07(B), the prohibitions against discrimination in the sale or rental of housing set forth in this subchapter shall apply to all dwellings except as exempted by division (B) below.

(B) Nothing in § 151.04 shall apply to:

(1) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this division (B)(1) shall apply only with respect to one such sale within any 24-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person and without the publication, posting, or mailing, after notice of any advertisement or written notice in violation of § 151.04(C), but nothing in this division (B)(1) shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(C) For the purposes of division (B) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(1989 Code, § 11-1-3) Penalty, see § 10.99

#### **§ 151.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 151.03 and except as exempted by §§ 151.03(B) and 151.07, it is unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin;

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, or national origin;

(C) To make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination;

(D) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available; and/or

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, or national origin.  
(1989 Code, § 11-1-4) Penalty, see § 10.99

#### **§ 151.05 DISCRIMINATION IN THE FINANCING OF HOUSING.**

It is unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, or national origin of such person or of any person associated with him or her in connection with such loan or other financial assistance, or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 151.03(B).

(1989 Code, § 11-1-5) Penalty, see § 10.99

#### **§ 151.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

It is unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation on account of race, color, religion, or national origin.

(1989 Code, § 11-1-6) Penalty, see § 10.99



**§ 151.07 EXEMPTION.**

Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nothing in this subchapter shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(1989 Code, § 11-1-7)

**§ 151.08 ADMINISTRATION.**

(A) The authority and responsibility for administering this subchapter shall be in the Town Manager/Clerk of the town.

(B) The Town Manager/Clerk may delegate any of these functions, duties, and powers to employees of the town or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The Town Manager/Clerk shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to other hearing examiners or to other officers in the town, to boards of officers, or to himself or herself, as shall be appropriate and in accordance with law.

(C) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Town Manager/Clerk to further such purposes.

(1989 Code, § 11-1-8)

**§ 151.09 EDUCATION AND CONCILIATION.**

The Town Manager/Clerk shall commence such educational and conciliatory activities as will further the purposes of this subchapter. He or she shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his or her suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement.

(1989 Code, § 11-1-9)

**§ 151.10 ENFORCEMENT.**

(A) Any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Town Manager/Clerk. Complaints shall be in writing and shall contain such information and be in such form as the Town Manager/Clerk requires. Upon receipt of such a complaint, the Town Manager/Clerk shall furnish a copy of the same to the person who allegedly committed or is about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under division (C) below, the Town Manager/Clerk shall investigate the complaint and give notice in writing to the person aggrieved whether he or she intends to resolve it. If the Town Manager/Clerk decides to resolve the complaint, he or she shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this subchapter without the written consent of the persons concerned. It is unlawful for any employee of the Town Manager/Clerk to make public any information in violation of this provision.

(B) A complaint under division (A) above shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and, with the leave of the Town Manager/Clerk, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(C) If within 30 days after a complaint is filed with the Town Manager/Clerk, the Town Manager/Clerk has been unable to obtain voluntary compliance with this subchapter, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Town Manager/Clerk will assist in this filing.

(D) If the Town Manager/Clerk has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days hereafter commence a civil action in any appropriate court against the respondent named in the complaint to enforce the rights granted or protected by this subchapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(E) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(F) Whenever an action filed by an individual shall come to trial, the Town Manager/Clerk shall immediately terminate all efforts to obtain voluntary compliance.

(1989 Code, § 11-1-10) Penalty, see § 151.99

**§ 151.11 INVESTIGATIONS; SUBPOENAS; GIVING OF EVIDENCE.**

(A) In conducting an investigation, the Town Manager/Clerk shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the Town Manager/Clerk first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Town Manager/Clerk may issue subpoenas to compel his or her access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The Town Manager/Clerk may administer oaths.

(B) Upon written application to the Town Manager/Clerk, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Town Manager/Clerk to the same extent and subject to the same limitations as subpoenas issued by the Town Manager/Clerk himself or herself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

(C) Witnesses summoned by subpoena of the Town Manager/Clerk shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him or her.

(D) Within five days after service of a subpoena upon any person, such person may petition the Town Manager/Clerk to revoke or modify the subpoena. The Town Manager/Clerk shall grant the petition if he or she finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(E) In case of contumacy or refusal to obey a subpoena, the Town Manager/Clerk or other person at whose request it was issued may petition for its enforcement in the magistrate or justice court for the precinct in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(F) It is unlawful for any person, with intent thereby to mislead the Town Manager/Clerk, to make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Town Manager/Clerk pursuant to his or her subpoena or other order, or to willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or to willfully mutilate, alter, or by any other means falsify any documentary evidence.

(G) The Town Attorney shall conduct all litigation in which the Town Manager/Clerk participates as a party or as amicus pursuant to this subchapter.

(1989 Code, § 11-1-11) Penalty, see§ 151.99

#### **§ 151.12 ENFORCEMENT BY PRIVATE PERSONS.**

(A) The rights granted by §§ 151.03, 151.04, 151.05, and 151.06 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or from time to time before bringing it to trial under § 151.10(D) if the court believes that the conciliation efforts of the Town Manager/Clerk are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Town Manager/Clerk and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this subchapter, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this subchapter shall not be affected.

(B) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorneys' fees in the case of a prevailing plaintiff; provided, that the said plaintiff in the opinion of the court is not financially able to assume said attorneys' fees.

(1989 Code, § 11-1-12)

#### **§ 151.13 INTERFERENCE, COERCION, OR INTIMIDATION.**

It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 151.03, 151.04, 151.05, or 151.06. This section may be enforced by appropriate civil action.

(1989 Code, § 11-1-13) Penalty, see§ 10.99

#### **§ 151.14 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES,**

It is unlawful for any person whether or not acting under color of law, by force or threat of force to willfully injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with:

(A) Any person because of his or her race, color, religion, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;

(B) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in division (A) above; or

(2) Affording another person or class of person's opportunity or protection so to participate.

(C) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in division (A) above or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

(1989 Code, § 11-1-15) Penalty, see § 10.99

***HOUSING AUTHORITY***

**§ 151.25 CREATED; COMPOSITION; TERMS OF OFFICE.**

There is hereby created the Housing Authority of the town. The Authority shall be composed of five members, to be appointed by the Mayor, who shall serve for terms of five years as specified in the municipal housing law of the state.

(1989 Code, § 11-2-1)

**§ 151.26 ADVISORY COMMITTEE.**

There shall be a three-member advisory committee for the Authority, which members shall be tenants of the Authority and shall hold office for terms of three years from July 1 in the year of their appointment, unless sooner removed for good cause. The Advisory Committee shall receive notification of each meeting, shall be entitled to attend such meetings, and shall be allowed to participate in the proceedings, but shall not have any vote therein.

(1989 Code, § 11-2-2)

**§ 151.27 POWERS AND DUTIES.**

There are hereby delegated to the Authority, as agent of the town, all powers conferred upon municipalities within the state by the municipal housing laws, subject to the restrictions and conditions hereinafter stated, except the power to borrow money, issue bonds, and acquire real property, including, but not limited to the following:

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(A) To construct, maintain, operate, and manage any housing projects within the town pursuant to the municipal housing laws of the state and this code;

(B) To employ a secretary, who shall be executive director, technical experts, and such other officers, attorneys, agents, and employees, permanent or temporary as may be required. Any and all personnel employed by the authority shall be certified eligible through the normal recruitment and testing procedures of the town for employment;

(C) To arrange or contract for the furnishing by any person or agency, public or private, of services, works, or facilities for or in connection with a housing project for the occupants thereof;

(D) To execute contracts and other instruments herein authorized to be executed by the authority, to be so executed by the chairperson of the authority and attested to by the secretary, or by such officers as the authority shall by resolution provide;

(E) To requisition funds from the United States, or any agency thereof, pursuant to the terms of a contract for loan and annual contributions which may be entered into hereafter;

(F) To negotiate for and let contracts for the construction of housing projects and the demolition of buildings and to include in any construction contract let in connection with a housing project, stipulations requiring that the contractor and any subcontractors comply with employment requirements, including those in the constitution and laws of the state as to the minimum wage and maximum hours of labor, and those conditions which the federal government has attached to its financial aid of the project;

(G) To execute all instruments and agreements required by the United States or any agency thereof;

(H) To select and make agreements with depositories for funds received from the United States, or any agency thereof, and others from the administration of the project, and to receive and disburse such funds, subject to the conditions governing their use; and

(I) To do and perform such other acts as may become necessary for the construction, maintenance, and operation of the housing projects.

(1989 Code, § 11-2-3)

**§ 151.28 ADDITIONAL POWERS AND DUTIES.**

The Commissioners of the Authority shall, in addition to the duties set forth by state law and this subchapter, be responsible to the town for the following.

(A) A monthly fiscal report shall be made to the Town Treasurer and to the Council in a form and in such detail as may be prescribed by the Council.

(B) The Council may prescribe additional reports, which shall be made to the Town Manager and the Council, including, but not limited to, the furnishing of minutes and any changes in operational procedures, and which shall be in such form and detail as may be prescribed by the Council.

(C) The Council shall at any time have the right to appoint an inspector to determine that the authority is in compliance with state law and this subchapter.

(D) Any Commissioner who shall be appointed and qualified shall be required to attend each meeting of the authority, and in the event any Commissioner is absent from three consecutive meetings without the consent of the Council or is absent from five meetings during any fiscal year of the town without consent of the Council, then such Commissioner shall be deemed to have resigned and his or her position shall thereupon be deemed vacant.

(E) The Chairperson of the Authority and the secretary thereof shall be required to file with the Town Clerk fidelity bonds in such amounts as the authority shall determine necessary and proper. (1989 Code, § 11-2-4)

### ***LOW RENT HOUSING***

#### **§ 151.40 DEFINITIONS.**

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

***UNSAFE OR UNSANITARY DWELLING UNIT.*** A dwelling unit, whenever by reason of dilapidation, faulty arrangement or design, lack of ventilation, light, or sanitation facilities, or any combination of these factors, is detrimental to safety, health, or morals.

***USEFUL LIFE OF SUCH PROJECT.*** The period of physical usefulness of the particular project for the purpose of providing dwelling accommodations, but in no event less than the number of years during which any of the bonds shall remain outstanding.

(1989 Code, § 11-3-1)

#### **§ 151.41 PROJECTS; FEDERAL FUNDS.**

The town, by and through the authority, shall undertake, develop, and administer a low-rent housing project in the town and endeavor to obtain a contract to obtain federal annual contributions from the United States or any agency thereof.

(1989 Code, § 11-3-2)

**§ 151.42 COOPERATION FOR VACATING OR DEDICATING STREETS; ZONING.**

The town shall cooperate with the authority by vacating such streets and alleys within the area of any project or adjacent thereto as may be necessary in the development of such project, by dedicating land for new streets and alleys, by zoning or rezoning to a proper reclassification any area in the town within lawful ways as may be found necessary by the town and the authority in connection with the development and construction of the project.

(1989 Code, § 11-3-3)

**§ 151.43 CONTRACT WITH BOND HOLDERS; AMENDMENT OF CHAPTER.**

The provisions of this subchapter shall constitute a contract by and between the town and the holders of any bonds, notes, debentures, or other obligations issued to refund such bonds or other obligations to assist in the development of any project, and this subchapter shall not be repealed, amended, or otherwise modified so long as any bonds issued to aid in financing the development of any project to which this subchapter relates or any bonds issued to refund such bonds shall remain outstanding and unpaid and so long as the title to such project is held by the town or some other public body or governmental agency authorized by law to engage in the development or administration of housing projects.

(1989 Code, § 11-3-4)

**§ 151.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his or her power to do so, in obedience to the subpoena or lawful order of the Town Manager/Clerk shall be fined not more than \$1,000 or imprisoned not more than, one year, or both. Any person who, with intent thereby to mislead the Town Manager/Clerk, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Town Manager/Clerk pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries or willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(1989 Code, § 11-1-11)



## CHAPTER 152: SUBDIVISION REGULATIONS

### Section

- 152.01 Purpose
- 152.02 Short title
- 152.03 Jurisdiction
- 152.04 Definitions
- 152.05 Submission and consideration of preliminary plats
- 152.06 Submission and consideration of final plats
- 152.07 Public improvement and design standards
- 152.08 Variances, exceptions, and appeals
- 152.09 Fees
- 152.10 Violations and enforcement
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- 152.99 Penalty

### § 152.01 PURPOSE.

The purpose of these regulations is to provide for the harmonious development of the town to include the location and width of streets, building lines, open spaces, utilities, or other physical improvements.

(1989 Code, § 15-1-1)

### § 152.02 SHORT TITLE.

This chapter shall be known and may be cited as "The Land Subdivision Regulations of the Town of Guadalupe".

(1989 Code, § 15-1-2)

### § 152.03 JURISDICTION.

Except as may otherwise be provided by law, these regulations shall apply to all plats or subdivisions of all land within the corporate limits of the town.

(1989 Code, § 15-1-3)

**§ 152.04 DEFINITIONS.**

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

**ALLEY.** A public way which provides secondary means of access to abutting property, usually to the side or rear of lots.

**BLOCK.** A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad, rights-of-way, or parks or a combination thereof.

**BUILDING LINE.** A line on a plat indicating the limit beyond which buildings or structures may not be erected.

**COMPREHENSIVE PLAN.** The duly adopted plan for the long-range development of the community which includes maps, charts, illustrations, and texts.

**DEPARTMENT.** The Town Manager or his or her agent.

**EASEMENT.** A permanent or temporary grant of right by a property owner to the public, a corporation or other persons of the use of a strip of land for specified purposes. Ownership of said strip of land shall remain with the property owner.

**FINAL PLAT.** A plan or map prepared in accordance with the provisions of these regulations and those of any other applicable town ordinances, which plat is prepared to be placed on record in the office of the County Recorder.

**GOVERNING BODY.** The Council of the Town of Guadalupe.

**LOT.** A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

**PRELIMINARY PLAT.** The drawings and documents showing the character and proposed layout of the subdivision to indicate its suitability in relation to the community's comprehensive plan.

**RIGHT-OF-WAY.** The entire way between the property lines of abutting owners.

**SIDEWALK.** A pedestrian walkway with permanent surfacing constructed to town standards.

**STREET.** A right-of-way dedicated to the public use which provides principal vehicular and pedestrian access to adjacent properties, including the right-of-way but not limited to streets, avenues, boulevards, roads, lanes, parkways, places, bridges, viaducts, alleys, or easements for public or private vehicular use.

***SUBDIVIDER.*** A person, firm, corporation, partnership, association, estate, syndicate, trust, or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of these regulations.

***SUBDIVISION.***

(1) Improved or unimproved land or lands divided for the purpose of financing, sale, or lease, whether immediate or future, into four or more lots, tracts, or parcels of land, or, if a new street is involved, any such property which is divided into more than two parts. ***SUBDIVISION*** also includes any condominium, cooperative, community apartment, townhouse, or similar project containing four or more parcels in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or air space above the property shown on the plat are to be divided.

(2) ***SUBDIVISION*** does not include the following:

(a) The sale or exchange of parcels of land to or between adjoining property owners if such sale or exchange does not create additional lots;

(b) The partitioning of land in accordance with state statutes regulating the partitioning of land held in common ownership; or

(c) The leasing of apartments, offices, stores, or similar space within a building or trailer park, nor to mineral, oil, or gas leases.

(1989 Code, § 15-2)

**§ 152.05 SUBMISSION AND CONSIDERATION OF PRELIMINARY PLATS.**

(A) Any subdivider desiring to subdivide land that is subject to the provisions of these regulations shall file with the Department ten copies of an application, together with supporting documentation which contains the following:

(1) The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor and certified engineer;

(2) Names of the subdivision and all new streets;

(3) General layout of adjacent unsubdivided property to show how streets and other public facilities, in the proposed subdivision, relate to the unsubdivided property;

(4) The location and dimensions of all boundary lines of the property to be expressed in feet;

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(5) The location of existing streets, easements, water bodies, streams, and other pertinent features such as washes, railroads, buildings, parks, cemeteries, drainage ditches, or bridges. Generally such data should be shown on topographic maps with contour intervals of not less than two feet;

(6) The location and width of proposed streets and easements, alleys, and other public ways and building setback lines;

(7) The locations, dimensions, and areas of all proposed or existing lots;

(8) Indication of the use of any lot (single-family, two-family, or multi-family) and uses other than residential proposed by the subdivider with existing and proposed zoning district classification and boundaries; or

(9) The general plan of sewage disposal and water supply in areas where approved public sewer or water systems are proposed to serve the subdivision. In other cases, a notation shall be made on the plat indicating type of sewage disposal or water system proposed.

(B) Upon receipt of properly prepared application and accompanying fee as provided in § 152.09, the Department shall promptly conduct reviews of data submitted. Such review shall include opportunity for comment by representatives of private utilities, the state's Department of Transportation, County Health Department, school districts, United States Postmaster, soil conservation service, and various town departments. These agencies shall check the plat for conformance with the regulations and standards of their agencies and shall render a written report to the Department. If no report is received within 15 days, the Department may assume that the agency has no objections regarding the proposed plat, and such agency's approval shall be assumed. After staff reviews and comments of technical agencies are received, a meeting shall be held between the Department staff and developer regarding changes deemed advisable.

(C) The developer shall submit ten copies of a revised (if necessary) preliminary plat to the Department. Upon receipt of such plat and accompanying documents, the Council shall schedule a hearing within 30 days of such request. After such hearing, the Council shall approve as submitted, as modified or disapprove the preliminary plat and express its reasons therefor. The action of the Council shall be noted on the preliminary plat. One copy shall be returned to the subdividers.

(D) If the Council fails to approve or disapprove the preliminary plat within the period of time set by this regulation, then such preliminary plat shall be deemed to have been approved unless the subdivider shall have consented to extend or waive such time limitation.

(E) Approval of the preliminary plat does not constitute acceptance of the subdivision but authorizes preparation of the final plat. No grading or improvements shall take place in the subdivision prior to approval, endorsement, and filing of the final plat.

(F) The approval of a preliminary plat shall be effective for a period of one year, at the end of which time final approval on the subdivision must have been obtained from the Council, although the plat need not yet be signed and filed with the County Recorder. Any plat not receiving final approval

within the period set forth herein shall be null and void, and the subdivider shall be required to resubmit a new plat for preliminary approval subject to all new zoning restrictions and subdivision regulations. (1989 Code, § 15-3)

**§ 152.06 SUBMISSION AND CONSIDERATION OF FINAL PLATS.**

(A) Final plats shall be submitted to the Department within one year of approval of the preliminary plat unless an extension is granted by the Council. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws; and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he or she proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

(B) The original and ten copies of the final plat and other exhibits required for approval shall be submitted. The final plat shall be drawn in ink on tracing cloth, Mylar, or similar material and shall be at a scale of one inch to 100 feet.

(C) The final plat shall show the following:

- (1) The correct legal description of the property being subdivided;
- (2) True north point, graphic scale, and date;
- (3) The boundary lines of the area being subdivided with accurate distances and angles (maximum closure error of one in 5,000);
- (4) The lines of all proposed highways, streets, and alleys with their width and names;
- (5) The accurate outline of any portion of the property intended to be dedicated or granted to public use;
- (6) The lines of all adjoining property and the lines of the adjoining highways, streets, and alleys with their widths and names;
- (7) All lots designated by numbers;
- (8) The location and widths of building lines on front and side streets and the location and widths of utility easements, easements for possible future construction, and easements for drainage purposes;
- (9) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements, and any other areas for public or private use. Linear dimensions are to be given to the nearest one-hundredth of a foot;

**Guadalupe - Land Usage**

(10) The radii, arcs, chords, points of tangency, and central angles for all curvilinear streets and radii for rounded corners;

(11) The location of all survey monuments and benchmarks together with their descriptions;

(12) The names of the subdivision and the owner or owners or subdividers; and

(13) Acknowledgment of the owner or owners of the land being subdivided as to restrictions including dedication to public use of all streets, alleys, parks, or other open spaces shown thereon and the granting of easements required.

(D) The following certificates are to be provided with the final plat in accordance with § 152.07:

(1) Acknowledgment of ownership by owner or owners, and statements, by a notary public authorized to take the acknowledgments of deeds, to the effect that all previous taxes have been paid and that all highways, streets, alleys, and public grounds shown on the plat are dedicated for public use;

(2) Surveyor or licensed professional engineer of the state, certifying that he or she has accurately surveyed such subdivision and the correct location of all monuments shown, and all lots, blocks, highways, streets, avenues, alleys, public ways and grounds, and other grounds are well and accurately staked off and marked;

(3) Space for approval of Council Planning Commission; and

(4) Space for the County Recorder to state the day, month, year, time, book, and page that said plat was recorded.

(E) Upon receipt of a properly prepared final plat and accompanying fee as provided in § 152.09, the Department shall promptly conduct reviews of data submitted for its conformity to the approved preliminary plat and as to its conformity to these land subdivision standards and other applicable town and state laws.

(F) The Council shall approve or disapprove the final plat within 30 days of receipt. Before a final plat is recorded, the Council shall approve and accept streets and other public ways, service, and utility easements and land dedicated for public use. Approval of the plat shall be shown over the signature of the Mayor and attested to by the Town Clerk. If the Council disapproves the plat, it shall advise the subdivider in writing of the reason for such disapproval.

(G) If the governing body fails to act on the final plat within 60 days of its submittal to the Department, the Council shall be deemed to have approved unless the subdivider shall have consented to extend or waive such time limitation.

(1989 Code, § 15-4)

**§ 152.07 PUBLIC IMPROVEMENT AND DESIGN STANDARDS.**

(A) The subdivider of land shall be required to install or otherwise provide for certain improvements within the subdivision. Such improvements shall not be installed prior to proper endorsement of the final plat by the Council.

(B) The proper installation of such improvements, other than those by a private utility company, shall be assured by provision of surety in the form of bond or cash escrow in favor of the town. All improvements installed by the developer shall comply with specifications and standards approved by the town.

(C) Such surety shall be properly executed prior to any grading or construction and shall be released in segments upon written approval of the Department. A building permit shall not be issued for a lot or tract in any subdivision for which such surety has not been furnished.

(D) The minimum width for any street right-of-way shall be 50 feet except by special permit approved by the Council for purely local drives. All streets and other public spaces and easements shall conform in effect to the comprehensive plan, both as to location and as to width or size. When adjoining undeveloped property, a full street shall be dedicated.

(E) The minimum width of any alley, wherever provided, shall be 15 feet. Where alleys are not provided, easements may be required along lot lines of or across lots where necessary for the extension of water mains, sewers, and similar purposes; such easement shall be a minimum width of eight feet along the appropriate property lines.

(F) The arrangement of streets in new subdivisions shall make provision for the direct continuation of the principal existing streets in adjoining subdivisions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements. In general, such streets shall be a width at least as great as the existing streets or 50 feet, whichever is greater. The street and alley arrangement must also be such as to provide opportunity for access and use by adjoining property owners.

(G) Wherever a street will not open into another street, an adequate circular turn around shall be provided. Grades of streets shall be the lowest feasible, and no grade shall be in excess of 5 % on through traffic streets nor in excess of 10% on any other street. Streets shall be paved with such paving of a type and strength suitable for the volume and character of traffic to be expected and should meet town specifications. All improvements shall conform to the best engineering standards. Due consideration shall be given throughout to the appearance of the subdivision and the various features thereof within its own boundaries and also in its environment in the town.

(H) The subdivider shall install street signs at all intersections within the subdivision. Such street signs shall follow the street names designated on the approved final plat and shall comply with the specifications of the town.

(I) The subdivider shall be responsible for the proper installation of all utilities including sanitary sewers and connection to approved treatment facilities and water supply approved by the state's Department of Health Services. Such utilities shall be installed according to the specifications and minimum standards of the controlling utility company or public agency.

(J) Sidewalks are required unless exempted by the Council.  
(1989 Code, § 15-5)

### § 152.08 VARIANCES, EXCEPTIONS, AND APPEALS.

(A) Whenever it is found that the land included in a subdivision plat, presented for approval, is of such size or shape, or is subject to, or is affected by such topographical location or conditions, or is to be devoted to such usage that full conformity to the provisions of these regulations is impossible or impractical, the Council may set forth particular variation from these regulations, if, in their opinion, the variation will effect substantial justice and promote the public interest.

(B) The subdivider may appeal to the Council decisions made in the enforcement or interpretation of these regulations by the Department. Such appeals shall be filed within 30 days with the Town Clerk. If the Council sustains such decisions, the prior enforcement or interpretation shall be final, except as otherwise provided by law. If the Council overrules such decision, such decision shall be final.

(C) The subdivider may request that permission be granted to commence construction on a model or show home prior to completion of public facilities required by these regulations. Such permission may be granted by the Council after filing of the final plat with the County Recorder and upon satisfactory assurances by the developer that improvements will proceed in a timely manner. Such model or show home shall not be occupied for residential purposes until public improvements have been completed in accordance with these regulations and other laws of the town.  
(1989 Code, § 15-6)

### § 152.09 FEES.

(A) *Preliminary plat.* At the time of filing a preliminary plat, a subdivider shall pay to the town a ~~(remove basic fee and insert) flat rate~~ of ~~\$(remove 25 plus a fee of \$2 per lot and insert) \$750 plus \$20 per lot.~~

(B) *Final plat.* At the time of filing a final plat, a subdivider shall pay to the town a ~~(remove basic fee of \$50 plus a fee of \$2 per lot and insert) \$750 plus \$20 per lot.~~  
(1989 Code, § 15-7)

### § 152.10 VIOLATIONS AND ENFORCEMENT.

(A) No building permit shall be issued for any structure upon a lot or tract in a subdivision that has not been subdivided and approved in the manner provided in these regulations, and no such plat, replat,



or dedication of a street or public way shall be filed with the County Recorder, as provided by law, until such plat, replat, or dedication shall have endorsed on it that it has been approved in accordance with these regulations.

(B) It is unlawful for any person to offer to sell or lease or to contract to sell or lease, or to sell or lease any subdivision or part thereof until a final plat thereof, in full compliance with provisions herein, is recorded in the office of the County Recorder, except that this shall not apply to any parcel of a subdivision offered for sale or lease, contracted for sale or lease or sold or leased in compliance with any law or subdivision regulations regulating the subdivision plat design and improvement of subdivision in effect at the time the subdivision was established. The County Recorder shall not record a plat located in the town unless the plat has been approved by the Council.

(1989 Code, § 15-8) Penalty, see § 152.99

#### **§ 152.11 FLOODPLAIN MANAGEMENT.**

(A) The town designates the Maricopa County Flood Control District as the enforcement authority for all floodplain management activities within its corporate limits. The District is hereby authorized to exercise the powers and duties set forth in A.R.S. Title 45, Chapter 10, Article (remove 4 and insert) 1402, within all areas of the town. #49

(B) (1) The town elects not to assume the responsibility of floodplain management from the County Flood Control District as provided for in A.R.S. §§ 48-3609 and 48-3610. The Town Manager is designated as the NFIP Floodplain Administrator for the town, is responsible for coordinating with the County Flood Control District, and will serve as the community point of contact on NFIP issues for county, state, and federal officials.

(2) Those public records entitled "Flood Insurance Study for Maricopa County, Arizona and Incorporated Areas" dated October 16, 2013 with accompanying FIRMs dated October 16, 2013 and all subsequent amendments and/or revisions, 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 in the town. The special flood hazard areas documented in the FIS and FIRMs 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.

(3) The public record designated as the "Floodplain Regulations for Maricopa County", dated June 25, 2014, and all subsequent amendments and/or revisions, 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.

(1989 Code, § 15-9) (Ord. 2017-01, passed 2-16-2017) Penalty, see § 152.99

**§ 152.99 PENALTY.**

(A) The violation of any provision of this chapter shall be deemed to be a public offense and any person, firm, association, partnership, or corporation convicted thereof shall be punished by a fine not to exceed \$300. The town shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of this chapter and to abate nuisances maintained in violation thereof; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure, or land. Each day any violation of this chapter shall continue constitutes a separate offense.

(B) Providing for penalties as per the County Flood Control District "Floodplains Regulations for Maricopa County", dated June 25, 2014, and all subsequent amendments and revisions that currently reads as follows.

(1) It is a Class 2 Misdemeanor to engage in any development or to divert, retard, or obstruct the flow of waters in a watercourse without first securing the written authorization of the District. A violator may be subject to jail and fines.

(2) The penalty for the civil offense of violation of Flood Control District's regulations, ordinances, or rules is a fine not in excess of that which is chargeable for a Class 2 Misdemeanor. Each day the violation continues constitutes a separate offense.

(3) All development located or maintained within any special flood hazard area since August 8, 1973, in violation of the flood control statutes or regulations without authorization from the Floodplain Administrator is a public nuisance per se and may be abated, prevented, or restrained by action of this political subdivision.

(4) Nothing in this section precludes any private right of action by any person damaged by another's unauthorized diversion, retardation, or obstruction of a watercourse. Further, the District is not precluded by anything in these regulations from pursuing injunctive and other remedies as provided by law.

(1989 Code, § 15-8) (Ord. 2017-01, passed 2-16-2017)

## CHAPTER 153: STRAW BALE STRUCTURES

### Section

#### *General Provisions*

- 153.01 Purpose
- 153.02 Scope
- 153.03 Definitions
- 153.04 Specifications for bales

#### *Construction and General Requirements*

- 153.15 General
- 153.16 Wall thickness
- 153.17 Wall height
- 153.18 Unsupported wall length
- 153.19 Allowable loads
- 153.20 Foundations

#### *Wall and Roof Bearing Assembly Anchorage*

- 153.35 General
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- 153.39 Stacking and pinning
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- 153.44 Wall finishes
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#### *Privacy/Landscape Walls*

- 153.60 General
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- 153.63 Moisture barrier
- 153.64 Stucco mesh
- 153.65 Wall finish

### ***GENERAL PROVISIONS***

#### **§ 153.01 PURPOSE.**

The purpose of this chapter is to establish minimum prescriptive standards of safety for the construction of structures which use baled straw as a load-bearing or non-load-bearing material. (Res. 96-17, passed 12-12-1996)

#### **§ 153.02 SCOPE.**

The provisions of this chapter shall apply to all structures utilizing straw bales in the construction of wall systems. Load bearing structures shall be limited to Occupancy Groups **R**, Division 3 and U. (Res. 96-17, passed 12-12-1996)

#### **§ 153.03 DEFINITIONS.**

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

***BALES.*** Rectangular compressed blocks of straw, bound by strings or wire.

***FLAKES.*** Slabs of straw removed from an untied bale. ***FLAKES*** are used to fill small gaps between the ends of stacked bales.

***LAID FLAT.*** Refers to stacking bales so that the sides with the largest cross-sectional area are horizontal and the longest dimension of this area is parallel with the wall plane.

***LAID ON-EDGE.*** Refers to stacking bales so that the sides with the largest cross-sectional area are vertical and the longest dimension of this area is horizontal and parallel with the wall plane.

***STRAW.*** The dry stems of cereal grains left after the seed heads have been removed. (Res. 96-17, passed 12-12-1996)

**§ 153.04 SPECIFICATIONS FOR BALES.**

(A) *Type of straw.* Bales of various types of straw, including, but not limited to, wheat, rice, rye, barley, oats, and similar plants, shall be acceptable if they meet the minimum requirements for density, shape, moisture content, and ties.

(B) *Shape.* Bales shall be rectangular in shape.

(C) *Dimensions.* Bales used within a continuous wall shall be of consistent height and width to ensure even distribution of loads within wall systems.

(D) *Ties.* Bales shall be bound with ties of either polypropylene string or baling wire. Bales with broken or loose ties shall not be used unless the broken or loose ties are replaced with ties which restore the original degree of compaction of the bale.

(E) *Moisture content.* Moisture content of bales, at time of installation, shall not exceed 20% of the total weight of the bale. Moisture content of bales shall be determined by one of the following.

(1) *Field method.* A suitable moisture meter, designed for use with baled straw or hay, and equipped with a probe of sufficient length to reach the center of the bale, shall be used to determine the average moisture content of five bales randomly selected from the bales to be used.

(2) *Laboratory method.* A total of five samples, taken from the center of each of five bales randomly selected from the bales to be used, shall be tested for moisture content by a recognized testing lab.

(F) *Density.* Bales in load-bearing structures shall have a minimum calculated dry density of seven pounds per cubic foot. The calculated dry density shall be determined after reducing the actual bale weight by the weight of the moisture content, as determined in division (E) above. The calculated dry density shall be determined by dividing the calculated dry weight of the bale by the volume of the bale.

(G) *Custom size bales.* Where custom-made partial bales are used, they shall be of the same density, same string or wire tension, and, where possible, use the same number of ties as the standard size bales. (Res. 96-17, passed 12-12-1996)

***CONSTRUCTION AND GENERAL REQUIREMENTS*****§ 153.15 GENERAL.**

Bale walls, when covered with plaster, drywall, or stucco shall be deemed to have the equivalent fire-resistive rating as wood frame construction with the same wall-finishing system. (Res. 96-17, passed 12-12-1996)

**§ 153.16 WALL THICKNESS.**

Nominal minimum bale wall thickness shall be 14 inches.  
(Res. 96-17, passed 12-12-1996)

**§ 153.17 WALL HEIGHT.**

(A) *Height limitation.* Bale walls shall not exceed one story in height and the bale portion shall not exceed a height to width ratio of 5.6:1 (for example, the maximum height for the bale portion of a 23 inch thick wall would be ten feet, eight inches), unless the structure is designed by an engineer or architect licensed by the state to practice as such, and approved by the building official.

(B) *Exception.* In the non-load-bearing exterior end walls of structures with gable or shed roofs, an approved continuous assembly shall be required at the roof bearing assembly level.  
(Res. 96-17, passed 12-12-1996)

**§ 153.18 UNSUPPORTED WALL LENGTH.**

The ratio of unsupported wall length to thickness, for bale walls, shall not exceed 13:1 (for a 23-inch thick wall, the maximum unsupported length allowed is 25 feet), unless the structure is designed by an engineer or architect licensed by the state to practice as such, and approved by the building official.  
(Res. 96-17, passed 12-12-1996)

**§ 153.19 ALLOWABLE LOADS.**

The allowable vertical load (live and dead load) on the top of bale walls shall not exceed 360 pounds per square foot (psf) and the resultant load shall act at the center of the wall. Bale structures shall be designed to withstand all vertical and horizontal loads.  
(Res. 96-17, passed 12-12-1996)

**§ 153.20 FOUNDATIONS.**

Foundations shall be sized to accommodate the thickness of the bale wall and the load created by the wall and roof live and dead loads. Foundation (stem) walls which support bale walls shall extend to an elevation of not less than six inches above adjacent ground at all points. The minimum width of the footing shall be the width of the bale it supports, except that the bales may overhang the exterior edge of the foundation by not more than three inches to accommodate rigid perimeter insulation. Footings shall extend minimum of 12 inches below natural, undisturbed soil or to frost line, whichever is lower.  
(Res. 96-17, passed 12-12-1996)

*WALLAND ROOF BEARING ASSEMBLY ANCHORAGE*

**§ 153.35 GENERAL.**

Vertical reinforcing bars with a minimum diameter of one-half inch shall be embedded in the foundation a minimum depth of six inches, and shall extend above foundation a minimum of 12 inches. These vertical bars shall be located along the centerline of the bale wall, spaced not more than two feet apart. A vertical bar shall also be located within one foot of any opening or corner, except at locations occupied by anchor bolts.

(Res. 96-17, passed 12-12-1996)

**§ 153.36 INTERSECTING WALLS.**

Walls of other materials intersecting bale walls shall be attached to the bale wall by means of one or more of the following methods or an acceptable equivalent.

(A) Wooden dowels at least five-eighths of an inch in diameter of sufficient length to provide 12 inches of penetration into the bale, driven through holes bored in the abutting stud, and spaced to provide one dowel connection per bale.

(B) Pointed wooden stakes, at least 12 inches in length and one and one-half inch by three and one-half inch at the exposed end, fully driven into each course of bales as anchorage points.

(C) Bolted or threaded rod connection of the abutting wall, through the bale wall, to a steel nut and steel or plywood plate washer, a minimum of six inches square and a minimum thickness of three-sixteenths inch for steel and one-half inch for plywood, in at least three locations.

(Res. 96-17, passed 12-12-1996)

**§ 153.37 ANCHOR BOLTS.**

(A) Load bearing bale walls shall be anchored to the foundation by one-half inch diameter steel anchor bolts embedded at least seven inches in the foundation at intervals of six feet or less. A minimum of two anchor bolts per wall shall be provided with one bolt located within 36 inches of each end of each wall. Sections of one-half inch diameter threaded rod shall be connected to the anchor bolts, and to each other, by means of threaded coupling nuts and shall extend through the roof bearing assembly and be fastened with a steel washer and nut. Bale walls and roof-bearing assemblies may be anchored to the foundation by means of other methods which are adequate to resist uplift forces resulting from the design wind load. There shall be minimum of two points of anchorage per wall, spaced not more than six feet apart, with one located within 36 inches of each end of each wall.

(B) The dead load of the roof and ceiling system, will produce vertical compression of the bales. Regardless of the anchoring system used to attach the roof-bearing assembly to the foundation, prior to installation of wall finish materials, bolts or straps shall be re-tightened to compensate for this compression.

(Res. 96-17, passed 12-12-1996)

### § 153.38 MOISTURE BARRIER.

(A) A moisture barrier shall be used between the top of the foundation and the bottom of the bale wall to prevent moisture from migrating through the foundation into the bottom course of bales. This barrier shall consist of one of the following:

- (1) Cementitious waterproof coating;
- (2) Type 30 asphalt felt over an asphalt emulsion;
- (3) Sheet metal flashing, sealed at joints; or
- (4) Other approved building moisture barrier.

(B) All penetrations through the moisture barrier, as well as all joints in the barrier, must be sealed with asphalt, caulking or an approved sealant.

(Res. 96-17, passed 12-12-1996)

### § 153.39 STACKING AND PINNING.

(A) Bales in load-bearing walls shall be laid flat and stacked in running bond where possible, with each bale overlapping the two bales beneath it. Bales in non-load-bearing walls may be laid either flat or on-edge and stacked in running bond where possible. For non-load-bearing walls, bales may be laid either flat or on-edge. Bales in load-bearing walls shall be laid flat and stacked in a running bond, where possible, with each bale overlapping the two bales beneath it. Overlaps shall be a minimum of 12 inches. Gaps between the ends of bales which are less than six inches in width can be filled by an untied flake inserted snugly into the gap.

(B) The first course of bales shall be laid by impaling the bales on the vertical bars or threaded rods, if any, extending from the foundation. When the fourth course has been laid, #4 rebar pins, or an acceptable equivalent, long enough to extend through all four courses, shall be driven down through the bales, two in each bale, located so that they do not pass within six inches of, or through the space between the ends of any two bales. The layout of these pins shall approximate the layout of the vertical bars extending from the foundation. As each subsequent course is laid, two such pins, long enough to extend through the course being laid and the three courses immediately below it, shall be driven down through each bale. This pinning method shall be continued to the top of the wall in walls seven or eight courses high, pinning at the fifth course may be eliminated.



(C) Only full-length bales shall be used at corners of load-bearing walls, unless exceptions are designed by an engineer or architect licensed by the state to practice as such, and approved by the building official.

(D) Vertical #4 rebar pins, or an acceptable alternative, shall be located within one foot of all corners or door openings.

(E) Staples, made of #3 or larger rebar formed into a shape, at least 18 inches long with two six-inch legs, shall be used at all corners of every course, driven with one leg into the top of each abutting corner bale. In lieu of staples, corner bales may be tied together by a method approved by the building official.

(Res. 96-17, passed 12-12-1996)

**§ 153.40 ALTERNATIVE PINNING METHOD.**

When the third course has been laid, vertical #4 rebar pins, or an acceptable equivalent, long enough to extend through all three courses, shall be driven down through the bales, two in each bale, located so that they do not pass within six inches of, or through the space between the ends of any two bales. The layout of these rebar pins shall approximate the layout of the rebar pins extending from the foundation. As each subsequent course is laid, two such pins, long enough to extend through that course and the two courses immediately below it, shall be driven down through each bale. This pinning method shall be continued to the top of the wall.

(Res. 96-17, passed 12-12-1996)

**§ 153.41 ROOF-BEARING ASSEMBLY.**

(A) Load-bearing bale walls shall have a roof-bearing assembly at the top of the wall to bear the roof load and to provide a means of connecting the roof structure to the foundation. The roof-bearing assembly shall be continuous along the tops of structural walls.

(B) An acceptable roof-bearing assembly option consists of two double two-inch by six-inch, or larger, horizontal top plates, one located at the inner edge of the wall and the other at the outer edge. Connecting the two doubled top-plates and located horizontally and perpendicular to the length of the wall shall be two-inch by six-inch cross members spaced no more than 72 inches center to center, and as required to align with the threaded rods extending from the anchor bolts in the foundation. The double two-inch by six-inch top plates shall be face nailed with 16d nails staggered at 16 inches on center, with laps and intersections face nailed with four 16d nails. The cross members shall be face nailed to the top plates with four 16d nails at each end. Corner connections shall include overlaps nailed as above or an acceptable equivalent such as plywood gussets or metal plates. Alternatives to this roof-bearing assembly option must provide equal or greater vertical rigidity and provide horizontal rigidity equivalent to a continuous double two by four top plate.

(C) The connection of roof-framing members to the roof-bearing assembly shall comply with the appropriate sections of the UBC.

(Res. 96-17, passed 12-12-1996)

#### § 153.42 OPENINGS AND LINTELS.

All openings in load-bearing bale walls shall be a minimum of one full bale length from any outside corner, unless exceptions are designed by an engineer or architect licensed by the state to practice as such, and approved by the building official.

(A) *Openings.* Openings in exterior bale walls shall not exceed 50 % of the total wall area, based on interior dimensions, where the wall is providing resistance to lateral loads, unless the structure is designed by an engineer or architect licensed by the state to practice as such, and approved by the building official.

(B) *Lintels.* Wall and/or roof load present above any opening shall be carried or transferred to the bales below by one of the following:

(1) A structural frame; or

(2) A lintel (such as an angle-iron cradle, wooden beam, wooden box beam). Lintels shall be at least twice as long as the opening is wide and extend at least 24 inches beyond either side of the opening. Lintels shall be centered over openings and shall not exceed the load limitations of § 153.19 by more than 25%.

(Res. 96-17, passed 12-12-1996)

#### § 153.43 MOISTURE PROTECTION.

(A) All weather-exposed bale walls shall be protected from water damage. An approved building moisture barrier shall be used to protect at least the bottom course of bales, but not more than the lower one-third of the vertical exterior wall surface, in order to allow natural transpiration of moisture from the bales.

(B) The moisture barrier shall have its upper edge inserted at least six inches into the horizontal joint between two courses of bales, and shall extend at least three inches below the top of the foundation. Bale wall shall have special moisture protection provided at all window sills. Unless protected by a roof, the tops of walls shall also be protected.

(C) This moisture protection shall consist of a waterproof membrane, such as asphalt-impregnated felt paper, polyethylene sheeting, or other acceptable moisture barrier, installed in such manner as to prevent water from entering the wall system at window sills or at the tops of walls.

(Res. 96-17, passed 12-12-1996)

**§ 153.44 WALL FINISHES.**

(A) Interior and exterior surfaces of bale walls shall be protected from mechanical damage, flame, animals, and prolonged exposure to water. Bale walls adjacent to bath and shower enclosures shall be protected by a moisture barrier.

(B) Cement stucco shall be reinforced with galvanized woven wire stucco netting or an acceptable equivalent. Such reinforcement shall be secured by attachment through the wall at a maximum spacing of 24 inches horizontally and 16 inches vertically, using a method approved by the building official.

(C) Where bales abut other materials, the plaster/stucco shall be reinforced with galvanized expanded metal lath, or an acceptable equivalent, extending a minimum of six inches onto the bales.

(D) Earthen and lime-based plasters may be applied directly onto the exterior and interior surface of bale walls without reinforcement, except where applied over materials other than straw. Weather-exposed earthen plasters shall be stabilized using a method approved by the building official.

(E) Lime based plasters may be applied directly onto the exterior surface of bale walls without reinforcement, except where applied over materials other than straw.  
(Res. 96-17, passed 12-12-1996)

**§ 153.45 ELECTRICAL.**

(A) All wiring within or on bale walls shall meet all provisions of the National Electrical Code adopted by this jurisdiction. Type NM or UF cable may be used, or wiring may be run in metallic or nonmetallic conduit systems.

(B) Electrical boxes shall be securely attached to wooden stakes driven a minimum of 12 inches into the bales, or an acceptable equivalent.  
(Res. 96-17, passed 12-12-1996)

**§ 153.46 PLUMBING.**

Water or gas pipes within bale walls shall be encased in a continuous pipe sleeve to prevent leakage within the wall. Where pipes are mounted on bale walls, they shall be isolated from the bales by a moisture barrier.  
(Res. 96-17, passed 12-12-1996)

***PRIVACY/LANDSCAPE WALLS*****§ 153.60 GENERAL.**

This subchapter covers freestanding or attached bale privacy or landscape walls, not exceeding six feet in height, from final grade to top of wall. Bales may be stacked either flat or on-edge. Alternate methods, other than those listed in this subchapter, may be approved by the building official.

(Res. 96-17, passed 12-12-1996)

**§ 153.61 FOUNDATIONS.**

The minimum foundation shall consist of an eight-inch thick reinforced concrete stem wall, over an approved footing. Minimum width of the stem wall shall be equal to the width of the bottom bale. Stem walls shall have continuous horizontal reinforcement consisting of two #4 bars with 24 inches' minimum lap at splices.

(Res. 96-17, passed 12-12-1996)

**§ 153.62 REINFORCEMENT.**

(A) Vertical reinforcing bars, a minimum three-eighths inch in diameter, shall be placed in the center of the stem wall, two per bale, and extend up a minimum of 24 inches, and be embedded a minimum of four inches into the concrete stem wall. Bales shall be pinned, using two three-eighths inch diameter bars per bale, and use pins long enough to provide at least one vertical bar from stem wall to top of wall, with a minimum of one full bale overlap where not continuous.

(B) For the purpose of attaching stucco mesh to the wall, 12d or larger galvanized common double-headed nails shall be embedded in the concrete a minimum of one inch below the top of the stem wall, with the heads embedded a minimum of two inches into the concrete, and the points extending a minimum of three-fourths inch from the face of the stem wall, and spaced a minimum of six inches on center on both sides of the wall.

(Res. 96-17, passed 12-12-1996)

**§ 153.63 MOISTURE BARRIER.**

A moisture barrier shall be used between the top of the stem wall and the first course of bales. A moisture barrier shall also be used to protect the tops of bales at the top of walls, and shall extend six inches down on either side of the wall.

(Res. 96-17, passed 12-12-1996)

**§ 153.64 STUCCO MESH.**

Stucco mesh, 20 gauge or heavier, shall be attached by means of clinching the embedded nails on one side of the wall, stretching a continuous piece of netting tightly over the top of the wall, and fastening the netting in the same manner on the opposite side of the wall.

(Res. 96-17, passed 12-12-1996)

**§ 153.65 WALL FINISH.**

Walls shall be finished with cement stucco, or stabilized mud plaster, with a minimum thickness of seven-eighths inch.

(Res. 96-17, passed 12-12-1996)



## CHAPTER 154: ZONING

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**GENERAL PROVISIONS**

**§ 154.001 TITLE.**

This chapter shall be known as and referred to as "the Zoning Ordinance of the Town of **Guadalupe**".  
(Zoning Code, Art. I Part I)

**§ 154.002 PURPOSE.**

(A) This chapter is hereby adopted for the purposes of promoting and protecting the public health, safety, morals, and welfare of the citizens of the town and to provide for the social, physical, and economic advantages resulting from a comprehensive and planned use of its limited land resources in accordance with the laws of the state.

(B) In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the purpose of implementing the comprehensive plan of the town.  
(Zoning Code, Art. I Part I)

**§ 154.003 DEFINITIONS.**

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural shall include the singular; the word "shall" is mandatory and the word "may" is permissive; the word "persons" include individuals, partnerships, corporations, clubs, or associations. The following words or terms may be used interchangeably: lot, plot, parcel, or premises; used, arranged, occupied, or maintained; building or structure; sold or dispensed; zone or district.

**ABUTTING.** The condition of two adjoining properties having a common property line or boundary, including cases where two or more lots adjoin only a corner or corners, but not including cases where adjoining lots are separated by a street or alley.

**ACCESS** or **ACCESS WAY.** The place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use as required by this chapter.

**ACCESSORY BUILDING.** A building, the use of which is customarily incidental to that of the dominant use of the main building or premises including bona fide household employees' quarters.

**ACCESSORY USE.** A use customarily incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or building or adversely affect other properties in the district.

**ACRE.** A land area measuring 43,560 square feet.

**ADJACENT.** The condition of being near to or close to, but not necessarily having a common dividing line, i.e., two properties which are separated only by a street or alley shall be considered as adjacent to one another.

**ALLEY.** A public thoroughfare which affords only a secondary means of vehicular access to abutting property and is not intended for general traffic circulation.

**AMENDMENT.** A change in the wording, context, or substance of this chapter, an addition or deletion, or a change in the district boundaries or classifications upon the district map, which imposes any regulation not heretofore imposed or removed or modifies any such regulation theretofore imposed.

**AMUSEMENT PARK.** A commercial amusement activity such as a carnival, circus, miniature golf course, or similar establishment which does not require an enclosed building.

**ANALOGOUS USE.** Any use which is comparable to the permitted uses, is similar in one or more important ways to the permitted uses, or resembles the permitted uses in one or more aspects. **ANALOGOUS USES** shall not be any more deleterious, obnoxious, or harmful than the uses permitted.

**ANIMAL CLINIC** or **ANIMAL HOSPITAL.** A place where animals or pets are given medical or surgical treatment in emergency cases and are cared for during the time of such treatment. Use as kennel shall be limited to short time boarding and shall be only incidental to such hospital use and shall be enclosed in a sound-proof structure.

**APARTMENT.** A suite of rooms, with cooking facilities and private bath and toilet facilities, used for living purposes. Each **APARTMENT** shall be considered a dwelling unit.

**ATTACHED BUILDING.** A building which has any parts of its exterior or bearing wall in common with another building or which is connected to another building by a roof.

***AUTO FULL SERVICE CAR WASH.*** A conveyor type car washing facility providing the customer with full car washing service, including the vacuuming and complete interior cleaning of the automobile by attendants.

***AUTOMOBILE SERVICE STATION.*** A place of business having pumps and/or storage tanks from which liquid fuel and/or lubricants are dispensed at retail, directly into the motor vehicle. Sales and installation of auto accessories, washing, polishing, inspections, and cleaning, but not steam cleaning may be carried on incidental to the sale of such fuel and lubricants.

***AUTOMOBILE REPAIR.*** All aspects of the repair of motor vehicles including, but not limited to, lubrication, tune up, and preventive maintenance.

***BAR or COCKTAIL LOUNGE.*** An establishment whose primary business is the serving of alcoholic beverages to the public for consumption on the premises.

***BASEMENT or CELLAR.*** The portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is equal to greater than the vertical distance from grade to ceiling.

***BLOCK.*** Property abutting one side of a street and lying between the two nearest intersecting street and railroad right-of-way, unsubdivided acreage, waterways, but not an alley, of such size as to interrupt the continuity of development on both sides thereof.

***BOARDING HOUSE or LODGING HOUSE.*** A building where, for definite periods, lodging with or without meals is provided for compensation for three or more persons, not constituting a family, as defined hereafter, but not exceeding 20 persons.

***BUILDING.*** Any structure for the shelter, housing, or enclosure of persons, animals, chattels, or property of any kind, with the exception of dog houses, play houses, and similar structures. Each portion of a building separated by dividing wall or walls without openings may be deemed a separate ***BUILDING*** for the purpose of issuing building permits.

***BUILDING, HEIGHT OF.*** The vertical distance measured from the average elevation at the top of the curb of the street or streets adjacent to the property, or to the top of the crown of the roadway or roadways, if there is no curb, to the highest point. In cases where drainage considerations supersede this chapter, the point of reference elevation would be subject to the approval of the Town Engineer.

***BUILDING SITE.*** The area of a building together with associated parking areas and open space required by this chapter. A ***BUILDING SITE*** may encompass more than one lot.

***CARPORT.*** An accessory building or portion of a main building with two or more open sides designated or used for the parking of motor vehicles. Enclosed storage facilities may be provided as part of a ***CARPORT***.

**CHURCH, SYNAGOGUE, or TEMPLE.** A permanently located building commonly used for religious worship. **CHURCHES, SYNAGOGUES, or TEMPLES** shall conform to the Uniform Building Code and are subject to development review approval.

**COMMERCIAL USE.** A use operated for profit or compensation and provides retail of goods or rendering of services.

**COMMON OPEN SPACE.** Any meaningful open space, other than streets or private yard setbacks, intended for use by all occupants of a development. This space may include recreation-oriented areas.

**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 air space in a residential, industrial, or commercial building on such real property, such as apartment, office, or store.

**CONVALESCENT HOME or NURSING HOME.** See **HOSPITAL.**

**COUNCIL.** The Town Council of Guadalupe.

**COURT.** Any space other than a yard on the same lot with a building or group of buildings, and which is unobstructed and open to the sky from any above the floor level of any room having a window or door opening on such court. The width of a **COURT** shall be its least horizontal dimension.

**CURB ELEVATION.** The average elevation of a curb adjacent to a development from which the height of a building is determined.

**DAY CARE SCHOOLS or NURSERY.** A public or private establishment providing care and supervision for five or more children not related to the proprietor.

**DENSITY.** A ratio of the number of dwelling units to the gross land area unless otherwise stated.

**DISTRICT.** Any zone as shown on the zoning map of the town for which there are uniform regulations governing the use of buildings and premises or the height and area of buildings.

**DISTRICT MAP.** The official zoning map of the town, which is a part of this chapter. (See § 154.054.)

**DWELLING.** Any building, or portion thereof, which is designed or used exclusively for residential purposes.

**DWELLING, MULTIPLE-FAMILY.** A building or portion thereof designed for occupancy by three or more families.

**DWELLING, SINGLE-FAMILY.** A building designed for occupancy by one family.

**DWELLING, TWO-FAMILY.** A building designed for occupancy by two families.

**DWELLING UNIT.** One or more rooms in a building designed for occupancy by one family for living purposes and having its own cooking and sanitary facilities.

**EFFICIENCY APARTMENT.** A dwelling unit which has only one combined living and sleeping room, said dwelling unit, however, may also have a separate room containing only kitchen facilities and also a separate room containing only sanitary facilities.

**FAMILY.**

(1) An individual or two or more persons related by blood, marriage, or adoption and usual servants, living together as a single housekeeping unit in a dwelling unit; or

(2) Not more than four persons, who need not be related, living together as a single housekeeping unit within a dwelling.

**GARAGE, PRIVATE.** Any accessory building or portion of a main building designed or used for the storage of not more than three motor-driven vehicles, provided that no **PRIVATE GARAGE** may be used or rented for the storage of commercial trucks having a capacity in excess of one ton.

**GARAGE, REPAIR.** A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor-driven vehicles.

**GRADE.** The top of a curb, or top of a crown of a street where no curb exists, as established at the midpoint of the front of the lot used for establishing building heights. For establishing heights of walls, fences, or other screening devices, see §§ 154.100 through 154.105.

**HOME OCCUPATIONS.**

(1) Any occupation or profession carried on by a member of a family, residing on the premises, and which is clearly incidental to the use of the structure for dwelling purposes and which does not change the exterior character of the premises in any way. This activity shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located, and further there shall be no signs, buildings, or structures other than those permitted in the district. Neither shall the occupation or profession be advertised visually.

(2) A carport or garage may not be used for home occupations without Town Council approval. There shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use. **HOME OCCUPATION** shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman, or other professional persons for consultation or emergency treatment, but not for the general practice of his or her profession.

(3) No offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced, and the activity shall be limited to the house between 7:00 a.m. and 10:00 p.m.

**HOSPITAL.** A facility for the general and emergency treatment of human ailments, with bed care and shall include sanitarium and clinic, convalescent or nursing home, maternity home, and homes for the aged.

**HOTEL.** A building in which lodging is provided and offered to the public for compensation for five or more persons and which is open to transient guests.

**INSTITUTION.** A building or buildings occupied by a nonprofit corporation or a nonprofit establishment for public use.

**JUNKYARD.** The use of a lot, or portion thereof, for the storage, keeping, or abandonment of junk, dismantled automobiles, or other vehicles, or machinery, or parts thereof including scrap metals, rags, or other scrap materials.

**KENNEL.** Any establishment at which dogs and cat are bred or raised for sale, or boarded, cared for, commercially or on a nonprofit basis, exclusive of dental, medical, or surgical care, or for quarantine purposes.

**LANDSCAPED AREA.** An area which has been improved through the harmonious combination and introduction of trees, shrubs, and ground cover, and which may contain natural topping material such as boulders, rock, stone, granite, or other approved material. The area shall be void of any asphaltic or concrete pavement except where walks are allowed.

**LAUNDRY SELF-SERVICE.** Establishments primarily engaged in the operation of coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises.

**LOT.** A legally created parcel of land occupied or intended for occupancy by one main building together with its accessory building, and uses customarily incidental to it, including the open spaces required by this chapter and having its principal frontage upon a street as defined in this chapter.

**LOT AREA.** The area included within lot lines after all right-of-way dedications have been made as required by the town's right-of-way standards.

**LOT, CORNER.** A lot adjoining two or more streets at their intersections.

**LOT, DEPTH OF.** The horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE.** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

**LOT, INTERIOR.** A lot other than a corner lot or key lot.

**LOT, KEY.** A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and facing on the street, which forms the side boundary of the corner lot.

**LOT LENGTH.** The length (or depth) of a lot shall be:

- (1) If the front and rear lines are parallel, the shortest distance between such lines;
- (2) If the front and rear lines are not parallel, the shortest distance between the midpoint of the front line and the midpoint of the rear lot line; or
- (3) If the lot is triangular, the shortest distance between the front lot line and a line parallel to the front lot line, not less than ten feet long lying wholly within the lot.

**LOT LINE.**

- (1) **FRONT.** The front property line of a lot shall be determined as follows.
  - (a) **CORNER LOT.** The front property line of a corner lot shall be the shorter of the two lines adjacent to the streets as originally platted or laid out. Where the lines are equal, the front line shall be that line which is obviously the front by reason of the prevailing custom of the other buildings in the block. If such front is not evident, then either may be considered the front of the lot but not both.
  - (b) **INTERIOR LOT.** The front property line of an interior lot shall be the line bounding the street frontage.
  - (c) **THROUGH LOT.** The front property line of a through lot shall be that line which is obviously the front line by reason of the prevailing custom of the other buildings in the block. Where such front property line is not obviously evident, the Board of Adjustment shall determine the front property line. Such a lot over 200 feet deep may be considered, for the purpose of this definition, as two lots each with its own frontage.

(2) **REAR.** The rear property line of a lot is that lot line opposite to the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten feet long, lying within the lot and parallel to the front property line. In the event that the front property line is a curved line, then the rear property line shall be assumed to be a line not less than ten feet long, lying within the lot and parallel to a line tangent to the front property line at its midpoint

(3) **SIDE.** The side property lines of a lot are those lot lines connecting the front and rear property lines of a lot.

**LOT LINES.** The lines bounding a lot.

**LOT OF RECORD.** A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Clerk of Maricopa County Recorder's Office, or parcel of land, the deed of which is recorded in the office of the County Recorder.

***LOT WIDTH.***

(1) The width of a lot shall be:

(a) If the side property lines are parallel, the shortest distance between these side lines;

or

(b) If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the district in which the lot is located. The axis of a lot shall be a line joining the midpoints of the front and rear property lines.

(2) ***LOT WIDTH*** shall mean, in the case of irregularly shaped lots, lots, lots having side lot lines not parallel, or lots on the curve of a street, the distance between side lot lines measured 30 feet behind the required minimum front setback line parallel to the street or street chord.

***MANUFACTURING.*** The fabricating or assembling of materials into finished or partially finished products by hand or by the use of machinery.

***MEANINGFUL OPEN SPACE.*** Space which can be enjoyed by people. This could include landscaped plazas, grass and trees, fountains, sitting areas, and the like, and is meant to provide an open garden atmosphere. ***MEANINGFUL OPEN SPACE*** does not include parking areas, vacant or undeveloped lots, or any other space which does not contribute to the quality of the environment.

***MOBILE HOME.*** A movable dwelling over 40 feet in length and over eight feet wide, constructed to be towed on its own chassis and designed so as to be installed with or without a permanent foundation for human occupancy as a residence.

***MOBILE HOME SPACE.*** A plot of ground within a mobile home park designed for the accommodation of one mobile home or trailer coach.

***MOTEL.*** See ***HOTEL***

***NON-CLIMBABLE.*** Not easily climbed by a young child; not having a ladder or horizontal rung effect by which a young child can gain uninvited access to the top nor having vertical openings through which a four-inch sphere can pass.

***NON-CONFORMING BUILDING.*** A building or portion thereof which was lawful when established but which does not conform to a subsequently established district or district regulations.

***NON-CONFORMING LOT.*** A parcel of land of record and legal prior to the effective date of this chapter, having less area, frontage, or dimensions than required in the district in which it is located.



**NON-CONFORMING USE.** A legal use of any building or land at the time of passage of this chapter or amendment thereto which does not conform after passage of this chapter or amendment thereto with the use regulations of the district in which located.

**NURSERY SCHOOL.** See *DAY CARE SCHOOL*.

**PARKING.** Off-street parking with access from streets or secondary means or as approved by subdivision plat.

**PARKING LOT.** A parcel of land devoted to parking spaces as set forth by the parking standards of §§ 154.120 through 154.125.

**PARKING LOT, COMMERCIAL.** Any lot upon which members of the general public operating a motor vehicle upon said lot and parking thereon may be required to pay a charge or fee for said usage to the owner of the lot or his or her agent.

**PARKING SPACE.** A permanently surfaced area, enclosed or unenclosed, having a minimum width of nine feet and an area of not less than 180 square feet which will accommodate a car.

**PATIO HOME.** An attached or detached single-family dwelling constructed with no side yard on one side of the lot.

**PERMITTED USE.** A use specifically permitted or a use analogous to those specifically permitted in this chapter.

**PRE-SCHOOL.** See *DAY CARE SCHOOL*.

**PROFESSIONAL USE.** The rendering of a service of a professional nature by:

- (1) Architects, engineers, and surveyors, who are licensed by the State Board of Technical Registration;
- (2) Doctors, osteopaths, and dentists, who are licensed by the state;
- (3) Lawyers, who are admitted to practice before the courts of the state; or
- (4) Accountants, who are members of the Arizona Society of Certified Public Accountants and/or the Arizona Association of Accountants, Incorporated.

**PROHIBITED USE.** A use not specifically permitted or a use analogous to those not specifically permitted.

**RECREATIONAL VEHICLE.** A vehicle eight feet or less in width and 40 feet or less in length primarily designed as temporary living quarters for recreational camping or travel use and not designed

for permanent residential or commercial purposes, with either its own motive power or mounted on or drawn by another vehicle.

**RESIDENTIAL FACILITY.** A home in which persons with development disabilities live and which is licensed, operated, supported, or supervised by the state. **DEVELOPMENTAL DISABILITY** shall mean autism, cerebral palsy, epilepsy, or mental retardation.

**REST HOME.** See **HOSPITAL**.

**RESTAURANT.** An establishment whose primary business is the serving of food to the public for compensation.

**RESTAURANT, DRIVE-IN.** Any building or structure where food and drink are served for consumption on the premises by order from and service to vehicular passengers outside the structure.

**RESTAURANT, DRIVE-THROUGH.** Any building or structure where food and drink are served for consumption within the building or off the premises by order from vehicular passengers outside the structure, including, but not limited to, services from an outdoor service window.

**RETAIL.** A sale for any purpose other than for resale in the form of tangible personal property.

**ROOMING HOUSE.** See **BOARDING HOUSE**.

**SCHOOL or COLLEGE.** Unless otherwise specified, private or public places of general instruction, but shall not include day care schools, dancing schools, riding academies, or trade or specialized vocational schools.

**SERVICE STATION, AUTOMOTIVE.** A retail business engaged primarily in the sale of motor fuels but also in supplying goods and services generally required in the operation and maintenance of automotive vehicles. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories, and replacement items; washing and lubrication services; automotive maintenance and repair; and the supplying of other incidental customer services and products.

**SHOPPING CENTER.** A group of facilities for commercial use, planned and designed for the site on which it is built, functioning as a unit, with, common off-street parking, landscaped areas, and pedestrian malls or plazas provided on the property as an integral part of the unit.

**SIGNS.**

(1) **SIGN.** Any device (visible beyond the boundaries of the property upon which located) providing identification, advertising, or directional information for a specified business, service, product, person, organization, place, or building. Included in this definition as signs are graphic devices such as logos, attention-attracting media such as banners or logo sculpture, and obtrusive, colored fascia or architectural element.

(2) **SIGN AREA.** That area in square feet of the smallest geometric figure or combination of regular geometric figures which figure or figures entirely enclose both the copy and the facing of the sign.

(3) **SIGN, ADVERTISING.** A sign which includes any copy and/or graphics related to any service, product, person, business, place, activity, or organization in addition to simple identification, excluding directional information.

(4) **SIGN, BANNER.** Temporary sign of fabric, plastic, paper, or other light pliable material not enclosed in a rigid frame but mounted as to allow movement of the sign by wind movements.

(5) **SIGN, CONSTRUCTION.** Any temporary sign erected on the premises of an existing construction project and designating the architect, contractor, designer, engineer, building, financier, or the name and the nature of the project.

(6) **SIGN, DIRECTIONAL.** A sign that does not contain either identification or advertising copy, but includes pertinent information, including assistance in the flow of traffic.

(7) **SIGN, FASCIA.** A sign which is permanently affixed to the horizontal piece covering the joint between the top of a wall and the projecting eaves of the roof.

(8) **SIGN, FREESTANDING.** An identification sign which is erected or mounted upon its own self-supporting permanent structure, detached from the supportive elements of a building.

(9) **SIGN, HEIGHT.** Distance from the top of curb, or crown of road where no curb exists, to the top of the highest point of the sign or sign structure.

(10) **SIGN, IDENTIFICATION.** A sign that includes, as copy, only the name of the business, place, organization, building, or person it identifies and not containing any advertising copy.

(11) **SIGN, ILLUMINATED.** Any sign with a surface lighted internally or externally.

(12) **SIGN, PORTABLE.** Sign not permanently affixed to the ground.

(13) **SIGN, ROOF.** Any sign erected upon the roof or structure of any building which is partially or totally supported by the roof.

(14) **SIGN, STRUCTURE.** Any portion of a sign, including the supports and framework of the sign.

(15) **SIGN, TEMPORARY.** Any sign, banner, pennant, valance of advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other like materials, with or without frames, and any type sign not permanently attached to the ground, wall, or building, intended to be displayed for a short period of time not to exceed 30 days.

(16) **SIGNS, WALL.** Any sign placed or painted directly upon or attached to the exterior, front, rear, or side wall of any building or structure.

**SLEEPING ROOM.** A room, other than a guest room, in which no cooking facilities are provided.

**STORY.** The portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost **STORY** shall be that portion of a building included between the upper surface of the top most floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above the grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered as a **STORY**.

**STREET.** A dedicated public or private passageway which affords a principal means of access to abutting property.

**STRUCTURAL ALTERATIONS.** 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.

**STRUCTURE.** Any piece of work constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, but not including a tent, vehicle, trailer coach, or mobile home.

**STRUCTURE, TEMPORARY.** Any piece of work which is readily movable, and used or intended to be used for a period not to exceed 90 consecutive days. Such **STRUCTURE** shall be subject to all applicable property development standards for the district in which it is located.

**SWIMMING POOL, PRIVATE.** A contained body of water, used for swimming or bathing purposes, either above ground level or below ground level, with the depth of the container being more than 18 inches or the area being more than 38 square feet.

**SWIMMING POOL, PUBLIC.** The same definition as private pool, but operated as a commercial business. **PUBLIC SWIMMING POOLS** shall conform to county health requirements.

**TOWN.** The Town of Guadalupe, Arizona.

**TOWNHOUSE.** A single-family dwelling with party walls and no side yards between abutting dwellings.

**TRAILER COACH.** See **RECREATIONAL VEHICLE**.

**UNIT DENSITY.** The ratio between land area and the dwelling units within the project.

**USE.** The purpose for which land or building is occupied, or maintained, arranged, designed, or intended.

**USE, ACCESSORY.** A subordinate use customarily incident to and conducted on the same lot with the principal use or building including bona fide household employees' quarters.

**USE PERMIT, CONDITIONAL.** A permit granted to a property owner by the Council to conduct a use allowed as a conditional use in a zoning district subject to a use permit. A use permit may be granted at the discretion of the Town Council after a public hearing.

**VARIANCE.** A modification of the terms of the zoning ordinance granted by the Board of Adjustment upon a finding that strict enforcement of the ordinance would cause undue hardship owing to special circumstances applicable to the individual property, including its size, shape, topography, location, or surroundings, for which the **VARIANCE** is granted and not caused by the applicant for said variance.

**WALL.** Any structure or device required by this chapter for screening purposes forming a physical barrier, which is so constructed that 50 % or more of the vertical surface is closed and prevents the passage of light, air, and vision through said surface in a horizontal plane. This shall include concrete, concrete block, wood, or other materials that are solids and are so assembled as to form a screen.

**WAREHOUSE.** A building or building used for the storage of goods of any type, and where no retail operation is conducted.

**WHOLESALE.** The sale of tangible personal property for resale by a licensed retailer for consumption by the ultimate purchaser.

**YARD.** An 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 herein, and the width of a side yard, the depth of a front yard, or depth of a rear yard, measured as the minimum horizontal distance between the lot line and the main building shall be used.

**YARD, FRONT.** An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The **FRONT YARD** on a residential corner lot is the yard adjacent to the shorter street frontage. The **FRONT YARD** of a commercial corner lot is the yard adjacent to the major street as determined by the Town Engineer. The **FRONT YARD** of a double frontage lot shall be maintained adjacent to both street frontages.

**YARD, REAR.** An open space on the same lot with a main building between the rear line of the principal building and the rear line of the lot extending the full width of the lot.

**YARD, SIDE.** An open unoccupied space on the same lot with a main building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side lot line. An interior **SIDE YARD** is defined as the side yard adjacent to a common lot line.

**ZONING ADMINISTRATOR.** The Town Manager, or his or her agent, responsible for the enforcement of the zoning ordinance of the town.

(Zoning Code, Art. I Part IV)

### *ADMINISTRATION*

#### **§ 154.015 REPEAL, VALIDITY, AND APPLICATION.**

(A) *Repeal.* All ordinances or parts of ordinances in conflict with this chapter are hereby repealed.

(B) *Validity.* Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

(C) *Application.* The repeal of the ordinance or parts thereof by this chapter shall not:

(1) Affect suits pending or rights existing immediately prior to the effective day of this chapter;

(2) Impair, avoid, or affect any grant or conveyance made or right acquired or cause of action now existing under any such repealed ordinance or amendment thereto; or

(3) Affect or impair the validity of any bond or other obligation issued or sold in constituting a valid obligation of the issuing authority immediately prior to the effective date of this chapter.

(Zoning Code, Art. I Part II)

#### **§ 154.016 POWERS, DUTIES, ENFORCEMENT, INTERPRETATION, AND CONFLICT.**

(A) It shall be the duty of the Town Council to hold public hearings when necessary and make recommendations to the Town Council on all matters concerning or relating to the town's comprehensive plan, the creation of zoning districts, the boundaries thereof, the appropriate regulations to be enforced therein, the amendment of this chapter, and the relationship of development to the surrounding environment and the community.

(B) The Town Council shall have the power to approve, conditionally approve, or disapprove all applications for site plan review consistent with this chapter. Upon hearing an application, it may impose such reasonable conditions as it may deem necessary in order to fully carry out the provisions and intent of this chapter. Prior to the development, construction, remodel, change, or alteration of any proposed or existing project within a zoning district subject to approval of the Council.

(C) The Town Council shall have the power and jurisdiction to hear appeals taken to it by persons aggrieved or affected by a decision of an administrative official charged with the enforcement of this

chapter within 30 days by filing a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit all papers constituting the record upon which the action appealed from was taken. Said appeal shall be filed on a form provided by the Zoning Administration.

(D) This chapter shall be enforced by the Zoning Administration of the town or its authorized representative.

(E) In its interpretation and application, the provisions of this chapter will be held to be the minimum requirements for the promotion of the public health, safety, and general welfare of its citizens.

(F) The provisions of this chapter are not intended to interfere with or abrogate or annul any ordinance, rule, regulation, or permit previously adopted or issued and not in conflict with any provision of this chapter or which shall be adopted or issued pursuant to law related to the use of building or ordinance not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul an easement, covenant, or other agreement between parties, except when this chapter imposes a greater restriction, this chapter shall prevail.

(Zoning Code, Art. I Part II)

#### § 154.017 INJUNCTION.

(A) If any building or structure is constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the town or any owner or tenant of real property in the same contiguous zoning district as the building or structure in question, in addition to other remedies, may institute any appropriate action or proceedings:

- (1) To prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) To prevent the occupancy of the building, structure, or land;
- (3) To prevent any illegal act, conduct, business, or use in or about the premises; or
- (4) To restrain, correct, or abate the violation.

(B) When any such action is instituted by an owner or tenant, notice of such action shall be served upon the municipality at the time suit is begun by serving a copy of the complaint on the Town Clerk.

(C) In any such action or proceeding, the court with jurisdiction thereof has the power and in its discretion may issue a restraining order, or a preliminary injunction, as well as a permanent injunction, upon such terms and under such conditions as will do justice and enforce the purpose of this chapter.

(Zoning Code, Art. I Part II)

**§ 154.018 NONCONFORMING USES AND BUILDINGS.**

(A) The lawful use of a building or land existing at the time of the passage of this chapter, although such use does not conform to the provisions hereof for said land, may be continued, but if such nonconforming use is discontinued for a period of six months, it is then declared abandoned, and any future use of said building or land shall be in conformity with the provisions of this chapter.

(B) (1) The lawful use of a building or land existing at the time of the passage of this chapter may be continued, although such use does not conform with the provisions of this chapter for such building or land, and such use may be continued provided only reasonable repairs and alterations are made.

(2) A nonconforming use of a building or land may not be changed to another nonconforming use.

(3) Whenever a nonconforming use of a building or land has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

(C) An existing building or land designed, arranged, or intended for or devoted to a use not permitted under the regulations of this chapter for the district in which such building or land is located shall not be enlarged, extended, reconstructed, or structurally altered unless such building and such enlargement, extension, reconstruction, structural alterations, and further use thereof conform in every respect with the regulations specified by this chapter for such district in which said building or land is located. Nothing herein shall prohibit any reasonable repairs or alterations in a building or land used for such existing purposes.

(D) If at any time any building or land in existence or maintained at the time of the adoption of this chapter, which does not conform to the regulations for the district in which it is located, shall be destroyed by fire or other cause to the extent of 50% of its remaining value as determined by three competent appraisers, then and without further action by the Council the said building and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations specified by this chapter for the district in which such land and building are located.

(E) Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a building or land in violation of zoning regulations in effect at the time of the effective date of this chapter,

(Zoning Code, Art. I Part II)

**§ 154.019 CONDITIONAL USE PERMITS.**

(A) Conditional use permits which may be revocable, conditional, or valid for a term period, may be granted only when expressly permitted in the zoning district herein specified by this chapter and only after the Town Council has filed, in writing, that the granting of such conditional use permit will not be



materially detrimental to the public health, safety, and welfare and that the characteristics of the use proposed in such conditional use permits are compatible with the types of uses permitted in the surrounding area.

(B) The burden of proof satisfying these requirements shall rest with the applicant.

(C) In the case where a use permit is conditional upon a time schedule of development, if the property has not been developed within one year or on a schedule agreed upon by the Town Council, the conditional use application shall cease. Any request for an extension to these conditions shall be considered as a new application.

(Zoning Code, Art. I Part II)

## ***PROCEDURES***

### **§ 154.030 AMENDMENTS.**

(A) The regulations and boundaries set forth in this chapter may be amended, supplemented, changed, modified, or repealed whenever deemed necessary to best serve the public interest, health, comfort, safety, and general welfare of the citizens of the town.

(B) Before any such amendments can be considered by the Town Council, a public hearing shall be held at which parties of interest and citizens are to be heard.

(C) (1) Any recommendation of approval for an amendment, or any adoption of an amendment, may be subject to such conditions as the Council deems applicable in order to fully carry out the provisions of this chapter.

(2) If the condition regards a schedule for development of the specific use or uses for which zoning is requested and at the expiration of that period the property has not been developed according to said schedule, it shall revert to its former zoning classification without legislative action. Any request for an extension of amendment to the conditions granted shall be considered as a new application.

(D) Applications for amendments shall be made in the office of the Town Clerk by the owner or owners of real property, or by the Town Council on its own motion.

(E) (1) If the owners of 20% or more, either of the area of the lands included in the proposed ordinance or zoning map change, or those immediately adjacent in the rear or any side thereof extending 150 feet therefrom, or those directly opposite thereto extending 150 feet from the street frontage of opposite lots file a protest in writing against a proposed ordinance amendment, such amendment shall not become effective except by a favorable vote of three-fourths of all members of the Town Council.

(2) If any members of the Town Council are unable to vote on such a questions because of conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining membership of the Town Council, provided that such requirement number of votes shall in no event be less than the majority of the full membership of the Town Council.  
(Zoning Code, Art. I Part III)

### § 154.031 VARIANCES.

(A) Application for a variance of zoning regulations shall be filed upon a form provided and shall be accompanied by plans and description sufficient to indicate the nature of the variance involved.

(B) A variance from the provisions of this chapter shall not be authorized unless the Town Council shall find upon sufficient evidence:

(1) There are special circumstances or conditions applying to the property, including its size, shape, topography, location, or surroundings, the strict application of this chapter will deprive such property of privileges enjoyed by other properties in the same district;

(2) Such special circumstances were not created by the owner or applicant; and

(3) The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity nor constitute the granting of special privileges inconsistent with the limitations of adjacent property, the neighborhood, or the public welfare in general.

(C) The Council shall prescribe such conditions as the Council may deem necessary in order to fully carry out the provisions and intent of this chapter. Such conditions may include, among other things, a limitation of the time for which such variance shall be valid. Violation of any such condition shall be a violation of this chapter and such violation shall render the variance null and void.

(D) From the time of filing the application until the time of such hearing, the application and all maps, plans, and other accompanying data shall be available for public inspection during office hours at the office of the Town Manager.

(E) Upon receipt in proper form of any such application, the Council shall proceed to hold a public hearing upon said application not more than 30 days nor less than 15 days after such filing, at which time all persons shall be given an opportunity to be heard.

(F) Any person aggrieved by a decision of the Council, after hearing an application made by any taxpayer or municipal officer, may petition for a writ of certiorari to review the Council's decision pursuant to A.R.S. § 9-462 et seq. (remove 9-465 (1956)), as amended. #50  
(Zoning Code, Art. I Part III)

**§ 154.032 EXCEPTIONS AND MODIFICATIONS.**

The regulations specified in this chapter shall be subject to the following exceptions, modifications, and interpretations.

(A) *Extension of time.* Under special conditions, the Council may grant extensions of time otherwise set forth in this chapter.

(B) *Use of existing lots of record.* In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of this chapter which does not meet area and/or width requirements of this chapter, provided that the following conditions are met:

(1) The sum of the side yard widths of any such lot or plot shall not be less than 25 % of the width of the lot, but in no case less than 10% of the width of the lot for any one side yard;

(2) The depth of the rear yard of any such lot need not exceed 20 % of the depth of the lot, but in no case shall be reduced below 20 feet; and

(3) No building permit shall be issued for construction on any substandard lot, which lot was of record at the time of the adoption of this chapter, if said lot is adjacent to and has continuous frontage with any other lot which at the time of the adoption of this chapter was in the same ownership or whose ownership has beneficial interest in said lot, unless said lots are combined into one lot meeting the requirements of the zoning district which is applicable.

(Zoning Code, Art. I Part **iii**)

**§ 154.033 APPEALS TO ADMINISTRATIVE DECISIONS.**

(A) (1) An appeal shall stay all proceedings in the matter appealed from, unless the officer from whom the appeal is taken certified to the Council that, by reason of the fact stated in the certificate, the stay would in his or her opinion cause imminent peril to life or property.

(2) In such case, proceedings shall not be stayed, except by a restraining order granted by the Council or by a court of record on application and notice to the officer from whom the appeal is taken.

(3) The Council shall fix a reasonable time for hearing the appeal and give notice thereof to the parties in interest and the public.

(B) The concurring vote of a majority of the Council shall be necessary to reverse any order or decision of an administrative official, or to pass or to affect any variations from the terms and conditions of this chapter.

(Zoning Code, Art. I Part III)

**§ 154.034 NOTIFICATION.**

(A) Upon receiving a complete application for any specified request, the Town Clerk shall place the request upon the agenda for a regular meeting of the Council within the number of days specified in this chapter from the date of application submission to hearing date, or if the number of days are not specified, place the request upon the agenda on the next available regular meeting of the Council.

(B) (1) For all Council hearings, the time, place, and date of the hearing shall be posted on the property affected, at least 15 days prior to the hearing.

(2) It shall not be the responsibility of the town to maintain the posting once erected. At least 15 days' notice of time, place, and date of such hearing shall be published in an official paper of the town or a paper of general circulation in the town.

(3) The notice required to be published and posted shall also be mailed to the last known address of all owners of property within 150 feet of the property proposed to be rezoned **or for which a variance is to be considered** by said amendment, said owners to be determined by a current list of ownership.

(4) This list of owners shall be obtained not more than 30 days prior to the date of hearing before the Council and said notices shall be mailed no less than 15 days prior to the date of the first public hearing.

(5) In the event that the requests for amendments to the general requirements and uses are made, no application or posting shall be required but all of the requirements of this provision shall be adhered to.

(Zoning Code, Art. I Part III)

**§ 154.035 SITE PLAN CRITERIA, APPLICATION, CONTENT, AND REVIEW.**

(A) *Criteria.* In considering any application for site plan approval, the Council shall be guided by the following criteria.

(1) The Council shall examine the application to ensure that all provisions of this chapter and all other ordinances, master plans, general plans, and standards of the town shall be complied with where applicable.

(2) The proposed development shall not have any detrimental effect upon the general health, welfare, safety, and convenience of persons residing or working in the neighborhood.

(3) The architectural character of the proposed structure shall be in harmony with, and compatible to, those structures in the neighboring environment, and the architectural character adopted for any given area, avoiding excessive variety or monotonous repetition and shall take cognizance of the unique climatological and other environmental factors of this region and promote an indigenous architectural feeling.

*(B) Application.*

(1) The Town Council shall prescribe the form and content of applications and necessary accompanying data. The application shall be filed with the Zoning Administration.

(2) Applications shall be made by the owner of the property or his or her authorized agent. If the applicant is not the property owner, a letter from the property owner authorizing the agent to act in his or her behalf shall accompany said application.

*(C) Contents.*

(1) A site plan drawn to scale, indicating precisely what is planned for the property, including the following information, as determined necessary by the officer charged with administering this chapter may be required:

- (a) Lot dimensions;
- (b) All building and structures existing and proposed;
- (c) Yards and spaces between buildings;
- (d) Walls, fences, and landscaping;
- (e) Vehicular, pedestrian, and service access;
- (f) Off-street parking facilities, including the number of spaces and dimensions of parking areas;
- (g) Signs and lighting, including location;
- (h) Outdoor storage and activities;
- (i) Drainage and grading plans;
- (j) Refuse disposal facilities;
- (k) Street dedication and improvements;
- (l) Size, shape, and all adjacent rights-of-way; and/or
- (m) Other data as may assist in determining the effect of development on surrounding property.

(2) *Design and development standards.*

(a) All site improvements or those improvements required in public rights-of-way adjacent to the subject property shall conform to all pertinent sections in the town code, including, but not limited to, standard specifications, street rights-of-way width, and the subdivision ordinance of the town.

(b) Landscaping plans shall be in accordance with §§ 154.100 through 154.105.

(c) Lighting for subject property shall be directed towards the site and shall not cause undesirable glare to nearby residential properties.

(D) *Review.*

(1) The Town Council may approve, with or without conditions, a development or portion thereof, if it finds that:

(a) All provisions of the ordinances of the town have been complied with; and

(b) All provisions of master plans, the comprehensive plan, and development policies and standards of the town have been complied with.

(2) An extension of approval may be granted if the recipient files for the extension prior to the approval becoming void and the Committee finds that the request justifies extension of the approval.

(3) The Town Council may find that special conditions on the property require one or more of the following:

(a) Additional height limitations;

(b) Additional building setback;

(c) Limited vehicular access; or

(d) Off-site improvements in public rights-of-way adjacent to the subject property.

(E) *Enforcement.*

(1) Prior to the issuance of a building permit within any district subject to site plan review, the Zoning Administrator shall ascertain that the Council has approved plans which are in conformance to those presented with the building permit application and that the time limitations imposed by this chapter or the Council have not elapsed.

(2) The Zoning Administrator shall ensure that all matters approved by the Council are undertaken and completed according to the approval of the Council and is hereby authorized and required

to cause to be stopped any work attempted to be done without or contrary to the approval of the Council and shall cause any violator to be prosecuted.

*(F) Violations and penalties.*

(1) Any violation of these provisions by any person shall be prohibited and unlawful and such person shall be deemed to be guilty of a misdemeanor punishable upon conviction in accordance with the general penalty provision of the town code, and further, in addition to other remedies, the provisions of this chapter may be enforced by means of injunctive relief.

(2) Prior to any building being occupied, there must be full compliance with all requirements of the Council.

(Zoning Code, Art. I Part III) Penalty, see § 154.999

**§ 154.036 APPLICATIONS AND FEES.**

*(A) Applications.*

(1) Applications for amendments, site plans, use permits, appeals for interpretations, or variances shall be filed with the Zoning Administration.

(2) Each application shall contain the following information supplied by the applicant:

(a) *Vicinity ownership map.* A map drawn to scale, at least eight and one-half inches by 11 inches showing all parcels in the vicinity adjacent to and surrounding the property, within a radius of 150 feet from the exterior boundaries of the property;

(b) *Ownership list.* Typed or printed list containing complete names and mailing addresses of owners and of parcels within a radius of 150 feet of the boundaries of the property;

(c) *Plot plan.* A map drawn to scale, at least eight and one-half inches by 11 inches showing the dimensions of the property and the name and width of all internal and abutting streets, roads, or alleys, and any existing buildings, fences, easements, and the like, with distances to property lines;

(d) *Legal description.* An accurate description of the property, either a lot or tract of a recorded subdivision, or a metes and bounds description prepared by a registered engineer or licensed land surveyor; and

(e) *Letter of explanation.* A letter explaining the nature and intent of the proposed development and reasons justifying the request. References to effects produced by the request proposed upon surrounding neighborhoods and the town at large should be included.

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(3) Additional materials such as development plans, elevations, maps, and other materials may be required in accordance with other stipulations of this chapter.

*(B) Fees.*

(1) Upon the filing of an application, the applicant shall pay a filing fee in accordance with the following schedule.

<i>Type of Application</i>	<i>Fee</i>
Appeals of administrative decisions	\$25
Site plan review application	\$50
<i>Amendments to the Zoning Map for:</i>	
Continued items, continued at the request of the applicant after the property has been posted and the public hearing notices are mailed	\$25
Multi-family residential, commercial, and industrial districts	\$400 Remove: \$200 + \$20/acre over one acre to a maximum of \$700
Planned area development	400 Remove: \$200 with 25 units or less \$200 + \$5 per unit over 25 units to a maximum of \$1,000
Single-family residential	\$100
Site plan review application Move up in this section, fee changed	\$50 + \$25/acre for each acre over one
<i>Conditional Use Permits</i>	
Mobile homes	\$50 Remove: \$25
All other	\$50
<b><i>VariANCES</i></b>	
Single-family residential	\$50 Remove \$25
All other	\$50

(2) No part of the application fees shall be returnable after an application is advertised.

(3) An application initiated by the Town Council shall not be subject to the requirements of a filing fee.

(Zoning Code, Art. I Part III)

**§ 154.037 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY.**

Neither building permits nor certificates of occupancy may be issued until the use of the building and land conform to the provisions of this chapter.

(Zoning Code, Art. I Part III)



***ESTABLISHMENT OF DISTRICTS***

**§ 154.050 PURPOSE.**

In order to classify, regulate, restrict, and separate the use of land, buildings, and structures; and to regulate and limit the type, height, and bulk of buildings and structures in the various districts, and to regulate the area of yards and other open areas abutting and between buildings and structures and to regulate the density of population, the town is hereby divided into districts.  
(Zoning Code, Art. II Part I)

**§ 154.051 ESTABLISHMENT OF DISTRICTS.**

The districts established by this chapter shall include the following.

R-1-9	Single-Family Residential
R-1-6	Single-Family Residential
R-2	One- and Two-Family Residential
R-3	Multi-Family Residential
R-4	Multi-Family Residential
C-1	Neighborhood Commercial
C-2	General Commercial
I-1	Light Industrial Park
I-2	General Industrial Park
PAD	Planned Area Development

(Zoning Code, Art. II Part II)

**§ 154.052 EFFECT OF ESTABLISHMENT OF DISTRICTS.**

(A) Except as hereinafter provided:

(1) No building shall be erected and no existing building shall be moved, altered, added to, or enlarged nor shall any land or building be used, designed, or intended to be used for any purpose or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building or land is located, provided that any building may be moved off any lot;

(2) No building shall be erected to exceed in height the limit hereinafter designated for the district in which such building is located, whether such height be designated in number of stories, number of feet, or otherwise;

(3) No building shall be erected, nor shall any open space surrounding any building or otherwise required by this chapter be encroached upon or reduced in any manner, except in conformity to the yard, lot area, open space, building location, and off-street parking regulations hereinafter designated for the district in which such building or open space is located; and

(4) No yard or other open space on one lot shall be considered as providing a yard for open space for a building on any other lot.

(B) No lot shall be further divided to contain more dwellings than are permitted by the regulations of the district the lot is located in.

(C) No space needed to meet the width, yard, area, coverage, parking, or other requirements of this chapter for a lot or a building may be sold or leased away from such lot or building.

(D) No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

(Zoning Code, Art. 11 Part II)

#### **§ 154.053 LOCATION AND BOUNDARIES OF DISTRICTS.**

(A) The location and boundaries of the use districts are established as they are shown on the map entitled "The Zoning Map of the Town of Guadalupe", dated \_\_\_\_\_, signed by the Mayor and the Town Clerk, of which three copies of said zoning map are on file with the Town Clerk, and which is hereby declared to be a part of this chapter. #51

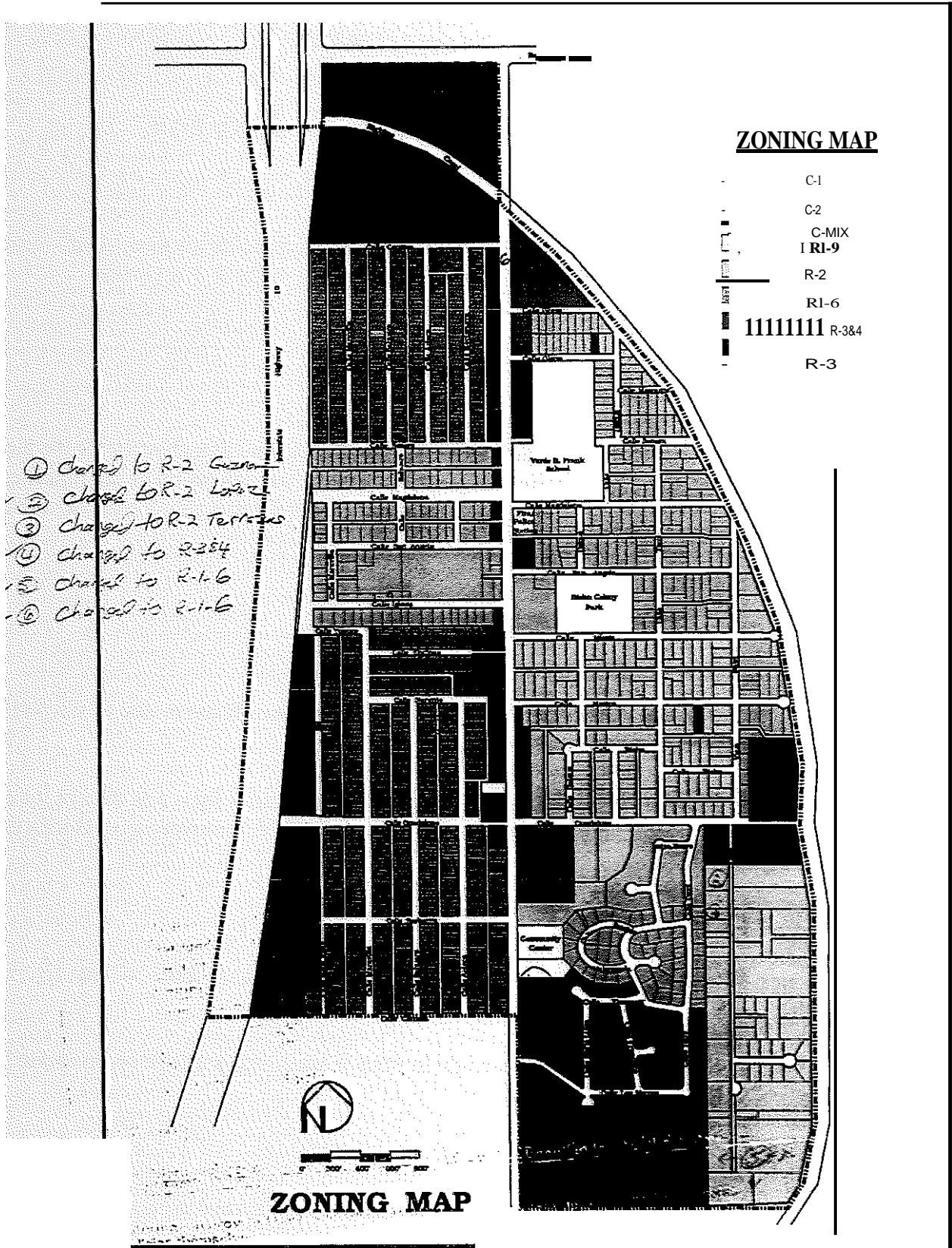
(B) Where uncertainty exists as to the boundaries of any of the aforementioned districts shown on said map, the following rules shall apply.

(1) Such district boundary lines are intended to follow street, alley, lot, or property lines as the same exist at time of passage of this chapter, except where such district boundary lines are fixed by dimensions shown on said map, in which case such dimensions shall govern.

(2) Where the application of the above rule does not clarify the zone boundary location, then the Council shall determine the location.

(Zoning Code, Art. II Part II)

§ 154.054 ZONING MAP.



***COMPOSITION OF DISTRICTS***

**§ 154.065 SINGLE-FAMILY RESIDENTIAL DISTRICTS: R-1-9 AND R-1-6.**

The composition of the districts listed above shall be as follows.

(A) *Intent.* The single-family residential districts are intended to provide for low density, detached housing in the R-1-9 district and medium density, detached housing in the R-1-6 District.

(B) *Permitted uses.*

(1) One-family dwelling;

(2) Agricultural, ±lower and vegetable gardening, nurseries, and greenhouses for the purpose of propagating and cultivating only, provided no business shall be carried on upon the premises and provided that no obnoxious fertilizers be stored and no obnoxious soil renovations shall be carried on upon the premise; and

(3) Home occupation.

(C) *Permitted accessory uses.*

(1) Uses of land or structures customarily incidental and subordinate to one of the permitted principal uses, unless otherwise excluded;

(2) Temporary offices and/or construction sheds and appurtenant signs and storage incidental to a construction project, which buildings, signs, and storage shall be removed upon completion or abandonment of the construction work;

(3) Private garage or carport;

(4) Private swimming pools when enclosed with a non-climbable fence at least five feet in height;

(5) Fences, not to exceed four feet in height in front or street side yards or seven feet in height in the side or rear yards; and

(6) Sign, on-site as provided in §§ 154.140 through 154.148.

(D) *Conditional uses.* The following uses shall be permitted as conditional uses, subject to obtaining a conditional use permit.

- (1) Public utility facilities to serve the immediate area, but not including any office facilities or maintenance yards for public utility use;
- (2) Publicly owned buildings and facilities, including libraries, police and fire stations, and other community and recreational buildings, including public schools;
- (3) Churches, accessory church facilities, and parochial schools;
- (4) Private recreational areas and facilities; and
- (5) One mobile home per lot.

(E) *Area, height, and setback regulations.*

(1) The following requirements shall be observed for residential uses in the R-1-9 and R-1-6 zoning districts.

<i>Zoning District</i>	<i>Min. Lot Area</i>	<i>Min. Lot Width</i>	<i>Min. Lot Depth</i>	<i>Minimum Yard Setbacks</i>				<i>Max. Bldg. Height</i>
				<i>Front</i>	<i>Side</i>	<i>Street Side</i>	<i>Rear</i>	
R-1-9	9,000 square feet	80'	100'	30'	10'	20'	10'	<b>30'; accessory building</b>
R-1-6	6,000 square	60'	90'	25'	7'*	15'	10'	15'

\*for ease of access, 1 side shall be at least 10 feet in width. Churches and schools 35 feet on each side.

(2) The minimum provisions listed above of width and area shall not apply to any lot of less than said width and area existing and of record in the office of the County Recorder before the effective date of this section, provided the owner thereof owns no adjoining land.

(3) For planned area developments, the density per gross acre shall not exceed 4.85 **dwelling unit (remove d.u.)** per acre for R-1-6. **#53**

(F) *Off-street parking.* There shall be two parking spaces per dwelling unit and as provided in §§ 154.120 through 154.125.  
(Zoning Code, Art II Part II)

**§ 154.066 TWO-FAMILY R-2 DISTRICT AND MULTI-FAMILY R-3 AND R-4 DISTRICTS.**

(A) *Intent.* The two-family and multi-family districts are intended to provide for a variety of lifestyles and residential densities. The R-2 District is intended to provide for medium density, one-family and two-family dwellings. The R-3 District is intended for medium density, multi-family dwellings. The R-4 District is intended for higher density, multi-family.

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*(B) Permitted uses.*

- (1) Any use permitted in the R-1-6 and R-1-9 Districts;
- (2) Two-family dwellings (duplex);
- (3) Boarding houses; and
- (4) In the R-3 and R-4 Districts, multiple dwellings, including cooperative apartment houses, condominium dwellings, and row dwellings consisting of not more than six units in a continuous row.

*(C) Permitted accessory uses.*

- (1) Accessory uses permitted in and as limited in the R-1-9 and R-1-6 Districts; and
- (2) Signs, on-site, as provided in §§ 154.140 through 154.148.

*(D) Conditional uses.* The following uses shall be permitted as conditional uses, subject to obtaining a conditional use permit:

- (1) Medical clinics; and
- (2) Conditional uses permitted in and as limited in the R-1-9 and R-1-6 Districts.

*(E) Area, height, setback regulations.*

(1) The following requirements shall be observed for permitted uses in the R-2, R-3, and R-4 Zoning Districts:

Zoning District	Min. Lot Area Per D. U. First 2 D.U.	Min. Lot Area Per D.U. Add'l D.U.	Min. Lot Width	Minimum Yard Setbacks				Max Bldg. Hgt.
				Frnt.	Side	Street Side	Street Rear	
R-2	5,000 sq. ft.		75'	25'	7'*	20'	20'	30'
R-3	5,000 sq. ft.	2,500 sq. ft.	100'	20'	7'*	15'	15'	30'
R-4	5,000 sq. ft.	1,250 sq. ft.	100'	20'	7'*	15'	15'	40'

\*for ease of access, 1 side shall be at least 10 feet in width. Churches and schools 35 feet on each side.

The minimum provisions listed above shall not apply to any lot of smaller size already of record in the office of the County Recorder of Maricopa County, Arizona, before the effective date of this chapter.

(2) The following requirements shall be observed for residential uses in the R-1-9 and R-1-6 zoning districts.

<i>Zoning District</i>	<i>Minimum Yard Setbacks</i>				<i>Max -Height</i>
	<i>Front</i>	<i>Side</i>	<i>Street Side</i>	<i>Rear</i>	
R-1-9	30'	10'	20'	10'	30'
R-1-6	25'	7'	15'	10'	30'

The minimum provisions listed above shall not apply to any lot of smaller size already of record in the office of the County Recorder of Maricopa County, Arizona, before the effective date of this chapter.

(F) *Off-street parking.* For two-family and multi-family dwellings, there shall be at least one space for each efficiency apartment, one and one-half spaces for each one and two bedroom dwelling unit, and two spaces for each dwelling unit containing more than two bedrooms as provided in §§ 154.120 through 154.125.

(Zoning Code, Art. II Part II) (Ord. 98-07, passed 12-22-1998; Ord. 2005-01, passed 4-28-2005)

**§ 154.067 COMMERCIAL DISTRICTS; C-1 NEIGHBORHOOD COMMERCIAL, C-2 GENERAL COMMERCIAL, AND C-M MIXED-USE COMMERCIAL.**

*(A) Intent.*

(1) The C-1 District is intended to preserve and protect neighborhood commercial areas located in close proximity of residential areas and to provide retailing of convenience goods and services to meet the frequent needs of the neighborhood.

(2) The C-2 District is intended to provide space for general retail and office uses, and efficient development of major retail shopping areas to serve the needs of the community and regional area.

(3) The C-M District is intended to provide for general and outdoor retailing uses and light manufacturing and storage associated with commercial uses.

*(B) General regulations.*

(1) In the C-1 and C-2 Districts, all uses shall be within enclosed buildings except for drive-thru windows and other outdoor uses where specifically permitted by this chapter.

(2) In the C-1 and C-2 Districts, outdoor display and storage are prohibited except where specifically permitted by this chapter.

(3) In the C-1, C-2, and C-M Districts, overhead doors and loading and service bays shall be screened from public street view by opaque fences or walls, six feet in height.

(4) In the C-1, C-2, and C-M Districts, the yards required adjacent to public streets shall be entirely landscaped except for necessary driveways and walkways; parking and maneuvering areas shall be located beyond those required landscaped yards.

(5) In the C-M District, outdoor storage shall be screened from public street view and adjacent properties by opaque fences or walls, six feet in height.

(6) All uses in the C-1, C-2, and C-M Districts shall comply with the regulations of §§ 154.100 through 154.105, 154.120 through 154.125, and 154.140 through 154.148 pertaining to landscaping, parking, and signing requirements of the town's zoning ordinance.

(7) Any use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration, or noise, or may impose hazard to health or property, shall be prohibited.

*(C) Permitted uses.*

(1) Any use permitted in the R-2, R-3, and R-4 Districts.

(2) The following neighborhood retail businesses and service establishments shall be permitted in enclosed buildings in the C-1, C-2, and C-M Districts:

- (a) Bakery;
- (b) Barber and/or beauty shop;
- (c) Bicycle sales and repair;
- (d) Bookstore, except adult bookstore (see § 154.003);
- (e) Cafe and/or cafeteria under 5,000 square feet in area and excluding live entertainment;
- (f) Day care center;
- (g) Delicatessen;
- (h) Drugstore;
- (i) Florist;
- (j) Fruit and fruit juice store;
- (k) Grocery store;
- (l) Hardware store;
- (m) Health food store;
- (n) Medical and dental offices;



- (o) Self-service laundry;
- (p) Radio and television sales and repair;
- (r) Stationery store;
- (s) Shoe sales and repair; and
- (t) Sporting goods store.

(3) The following general retail business and service establishments shall be permitted in enclosed buildings in the C-2 and C-M Districts:

- (a) Art shop and artistsupplies, addressograph shop, athletic club, awning sales and repair, air conditioning and ventilating equipment, sales and repair;
- (b) Blueprinting or Photostatting, bowling alley, banks;
- (c) Carbonated water sales, costume rentals;
- (d) Department store, diaper service, drapery and curtain store, dressmaking, dry goods store, dance halls;
- (e) Electrical and heating appliances and fixtures, sales and repairs, employment agency, embroidery store;
- (f) Fountain equipment supply, frozen food lockers, fix-it shop, film exchange, furniture sales and repairs, flooring or floor repair, funeral homes;
- (g) Gift shop, greenhouse, gunsmith, gymnasium, garage;
- (h) Hobby shop, hemstitching shop, house equipment display, hospital supplies, hotels;
- (i) Jewelry store;
- (j) Kindergarten, key and lock service;
- (k) Laundry, linen shop;
- (l) Millinery, medical clinics, manufacture of goods to be sold at retail on the premises, providing that such manufacture is plainly incidental to and operated in connection with a use permitted in this district;
- (m) Novelty store, night club;

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- (n) Office supply store, offices;
- (o) Painter or paint store, plumbing shop, paper hanger or wallpaper store, pet store, pawn shop, pool hall, penny arcade, public utility facilities and office, private schools;
- (p) Roller skating rink;
- (q) Second-hand store, sewing machine shop, seed and feed store, sign painting shop;
- (r) Towel and linen supply, trade school, typewriter and adding machine repair, tire shop, theater (except adult theater, see § 154.003), tailor shops;
- (s) Upholstery shop;
- (t) Variety store, video supply store, video game facility, veterinary offices, excluding animal hospitals, clinics, and kennels; and
- (u) Wholesale business, window washing service.

(4) The following outdoor general retail business and service establishments shall be permitted in the C-2 and C-M Districts:

- (a) Automobile service stations, including minor repairs and lubricating, automobile car wash service;
- (b) Building materials retailing;
- (c) Drive-in and drive-thru restaurants;
- (d) Fruit and vegetable outdoor sales;
- (e) Insulation sales;
- (f) Monument sales;
- (g) Plant nursery, parking lots; and
- (h) Recreation areas and facilities.

(5) The following commercial manufacturing and storage establishments shall be permitted in the C-M District:

- (a) Bus terminals;
- (b) Cleaning and dyeing plant, carpet and rug cleaning;

- (c) Dispatch yard;
- (d) Express office;
- (e) Printing, publishing, or lithographing, pest extermination;
- (f) Wholesale activities and warehousing;
- (g) Assembly of products from previously prepared materials; and
- (h) Commercial trade schools and business colleges.

*(D) Permitted accessory uses.*

- (1) Uses of land or structure customarily incidental and subordinate to one of the principal uses, unless otherwise excluded;
- (2) Signs, on-site as provided in §§ 154.140 through 154.148; and
- (3) Off-street parking and loading areas.

*(E) Conditional uses.*

(1) Conditional uses permitted in and as limited in the R-2, R-3, and R-4 Districts, subject to obtaining a conditional use permit in accordance with § 154.019, except that mobile homes as a permanent structure for commercial use shall not be permitted.

(2) The following uses shall be permitted in enclosed buildings as conditional uses, in C-1 Districts, subject to obtaining a conditional use permit in accordance with § 154.019:

- (a) Bank;
- (b) General business offices;
- (c) Medical clinic;
- (d) Veterinarian offices, excluding animal hospitals, clinics, or kennels;
- (e) Publicly owned museums, libraries, community centers, governmental offices;
- (f) Institutions of a religious, educational, or philanthropic nature;
- (g) Private clubs, lodges, or veterans organizations;
- (h) Permanent residence;

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(i) One mobile home for temporary use, not to exceed 12 months, while a permanent structure is being completed; and

(j) Liquor store, bar, beer tavern, and any other businesses engaged in selling liquor, beer, and wine

(3) The following uses in enclosed buildings shall be permitted as conditional uses in the C-2 and C-M Districts in accord with § 154.019 except those uses set forth in division (E)(3)(f) below. The uses in division (E)(3)(f) below shall be allowed without complying with the conditional use permit requirement of § 154.019. The uses set forth in § 154.019 will be subject to all other restrictions and conditions set forth in division (E)(3)(f) below:

(a) Hospitals and related uses, including animal clinics and hospitals;

(b) Permanent residence;

(c) One mobile home for temporary use, not to exceed 12 months, while a permanent structure is being completed;

(d) Liquor store, bar, beer tavern, and any other businesses engaged in selling liquor, beer, and wine;

(e) Major automotive repair, painting, upholstering, and body and fender work; and

(f) Adult bookstore, adult live entertainment, and adult theater (as originally defined by Ord. 55) and similar such uses, subject to the following conditions or limitations.

1. None of the above listed uses may be located within 1,000 feet of any use in the same category or of the uses listed above.

2. None of the above listed uses may be located within 500 feet of a preschool, kindergarten, elementary or secondary school, or any residential use districts, unless a petition requesting a waiver of this requirement signed by 51% of those adults who have resided for no less than 90 days within 500 feet of the boundary of the lot or parcel upon which the use is proposed to be located is received and verified by the Zoning Administration in which the Town Council may waive this requirement. The Zoning Administration, Town Manager, or any board shall not have jurisdiction to vary this provision.

3. Waiver by Town Council shall be based on the following findings:

a. The proposed use will not be contrary to the public interest, injurious to the adjacent or nearby properties, nor contrary to policies contained in the town comprehensive plan;

b. The proposed use will not alter the character of the immediate area such that it would contribute to a decline in economic vitality, public safety, or residential property values; and

c. The location of the proposed use in the area will not be contrary to any program of neighborhood conservation or redevelopment.

4. If a waiver is granted by Town Council, then a use permit shall be obtained prior to commencing the use.

5. The requirement for signatures of residents who live within 500 feet of the boundary of the lot or parcel shall apply whether or not the residents are located within the corporate limits of the town.

6. The Zoning Administration shall prescribe the form of petition. The petition shall contain such information as will enable the Zoning Administration to determine whether requirements of this chapter have been met. The nature of the proposed use shall be described prominently at the top of each page of the petition.

7. These provisions shall not be construed as permitting any use or act which is otherwise prohibited or made punishable by law.

(4) The following outdoor uses shall be permitted as conditional uses in the C-2 and C-M Districts in accordance with § 154.019: automobile, truck, mobile home, trailers, and recreational vehicle rentals and sales lots, new and used.

(5) The following uses in enclosed buildings shall be permitted as conditional uses in the C-M Districts in accordance with § 154.019:

- (a) Amusement parks;
- (b) Boat building;
- (c) Bottling works;
- (d) Bookbinding;
- (e) Carpenter and/or cabinet shop;
- (f) Contractors equipment storage yard or rental of equipment commonly used by contractors; .
- (g) Electrical sign shop;

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- (h) Firewood or lumber storage and sales;
- (i) Foundry casting light-weight, nonferrous metal not-causing noxious odors or fumes;
- (j) Knitting mills;
- (k) Machine shop;
- (l) Meat products, packing, smoking, and curing providing no objectionable fumes are emitted;
- (m) Monument works;
- (n) Radio and television transmitting towers and facilities;
- (o) Scientific or research laboratories;
- (p) Television set assembling;
- (q) Trucking dispatch, terminal, transfer company;
- (r) Weaving mills;
- (s) Welding shop; and
- (t) The manufacturing, compounding, processing, packaging, assembly, or treatment of any non-toxic, non-flammable, and non-hazardous materials or substances.

(6) The following uses in enclosed buildings shall be permitted as a conditional use only, in the C-2 Districts in accordance with this section:

- (a) Medical marijuana dispensary owned and operated as a non-profit entity; or
- (b) Medical marijuana cultivation or infusion facility owned and operated as a non-profit entity.

(F) *Area, height, setback regulations.* The following requirements shall be observed.

<i>Zoning District</i>	<i>Minimum Yard Setbacks</i>				<i>Max-Height:</i>
	<i>Front</i>	<i>Side</i>	<i>Street Side</i>	<i>Rear</i>	
C-1	25'	12'	15'	15'	30'
C-2	20'	12'	15'	10'	30'
C-Mix	30'	20'	30'	30'	40'

Toe minimum provisions listed above shall not apply to any lot of smaller size already of record in the office of the County Recorder of Maricopa County, Arizona, before the effective date of this chapter.

(G) *Off-street parking and loading.* Spaces for off-street parking and loading shall be provided according to the business use as specified in §§ 154.120 through 154.125.

(H) *Required site plan.* All uses in these districts shall be subject to the site plan review as designated in § 154.035.

(I) *Performance standards.*

(1) No use shall be established, maintained, or conducted in any commercial district which may cause any of the following:

(a) Dissemination of smoke, gas, dust, odor, or any other atmosphere pollutant outside the building in which the use is conducted or with respect to a use or any part thereof that is not conducted within a completely enclosed building, any dissemination whatsoever;

(b) Noise perceptible beyond the boundaries of the immediate site;

(c) Discharge of any waste material into any watercourse or ditch;

(d) Dissemination of glare or vibration beyond the immediate site of the use; and

(e) Traffic hazards or by reason of fire, explosion, radioactive, or similar cause to property on the same or any adjacent district.

(2) All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least 100 feet from any "R" District boundary.

(3) The Town Council may, as a condition for securing necessary permits for building and occupancy, require all operations, including the storage of anything except merchandise displayed for sale, to be conducted in a fully enclosed building or entirely behind walls or fences and for planting screens which fully conceal them from visibility off the lot.

(4) No merchandise shall be displayed for sale or rent in any required yard abutting a public street.

(Ord. 89-06, passed 8-10-1989; Ord. 2002-06, passed 4-25-2002; Ord. 2005-01, passed 4-28-2005; Ord. 2017-02, passed 3-23-2017)

#### **§ 154.068 PLANNED AREA DEVELOPMENT (PAD).**

(A) *Intent.* The PAD District is intended and designed to: provide a means for development on a unit basis, ensuring orderly and thorough planning that will result in high quality urban design;

encourage variety in architectural design through techniques, including, but not limited to, variations in building style, lot arrangements, and site planning; establish procedures that would reduce inequities occurring when strict application of zoning regulations pertaining primarily to small lots are applied to large lots; encourage innovative site planning, including, but not limited to, the preservation of natural character of the land and economy in construction and maintenance of streets and utilities; permit flexibility in design such that development would produce maximum choice in the type of environment, living units, commercial installations, and facilities available to the public; and produce an efficient, aesthetic, and desirable use of open space.

*(B) Procedure.*

(1) The owner or owners of any tract of land may submit to the Town Clerk, be accompanied by five copies of a development plan, which shall consist of a complete set of drawings and specifications for the proposed use and development of the entire tract of land. It shall be reviewed for conformity with the comprehensive plan, and with recognized principles of architectural design, land use planning, and landscape architecture. The Council may approve or disapprove the plan as submitted or may require that the applicant amend the plan as it deems necessary to effectuate the intent and purpose of this chapter.

(2) (a) If the Council approves the preliminary plan and request for rezoning, the applicant shall submit within one year, five copies of the final development plan for not less than one of the proposed development. The final development plan shall then be reviewed for compliance with the PAD standards and substantial compliance with the preliminary plan. The Council shall review the final development plan for its compliance with the standards of this chapter and its substantial compliance with the preliminary development plan.

(b) The final development plan and final plat shall be approved by the Council and the final plat duly recorded before any building permit is issued.

(3) (a) The Council may make the approval of the development plan contingent upon the completion of construction and improvements within a reasonable period of time. Failure to complete all improvements within said period of time shall be deemed sufficient cause for the Council to rescind the rezoning unless, an extension is requested by the developer or owner and approved by the Council.

(b) Any proposed change in the development plan after approval by the Council shall be considered in the same manner as the original proposal.

*(C) Plan requirements.*

(1) The preliminary development plan shall contain at a minimum the following information:

(a) Relationship of the property to the surrounding areas that will be affected by the proposed PAD;



(b) Proposed pattern of land uses including areas to be conveyed, dedicated, or reserved for parks, parkways, playgrounds, school sites, public buildings, and other similar public and semi-public uses; and

(c) Schematic site plan for each building site and common open areas, showing the approximate location of all structures, buildings, and improvements, except for single-family detached units which shall be indicated by lot location.

(2) The final development plan shall contain, where applicable, the following information:

(a) All information contained in the preliminary development plan as refined and revised;

(b) A map of the entire PAD showing topographic data sufficient to indicate the character of the terrain, other natural features and existing development to be retained;

(c) Plans and elevations of all building types;

(d) Schematic grading plans including proposed treatment of slopes and drainage plans;

(e) The number of dwelling units by dwelling type;

(f) Projection of school enrollment generated by PAD;

(g) Street and lot patterns and building siting envelopes showing setbacks;

(h) Projection of traffic volumes within PAD and volumes generated by the PAD that will be added to streets in the vicinity;

(i) Evidence of consultation with affected public agencies, including, but not limited to, school districts, flood control districts, the state's Division of Highways, and coordination with plans of other appropriate agencies;

(j) Any applicable standards of design and construction procedures for plan submission that may be related to the subdivision ordinance of the town;

(k) Proposed ownership, method of financing improvements, and maintenance of open space; if the proposed development includes common land which will not be dedicated by the town, the proposed by-laws of a homeowner's association fully defining the functions, responsibilities, and operating procedures of the association shall be included; proposed by-laws shall include, but not be limited to, provisions:

1. Requiring membership in the association by all owners of dwelling units within the development;

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- 2 Limiting the uses of the common property to those permitted by the final development;
3. Granting to each owner of a dwelling unit within the development the right to the use and enjoyment of the common property in the association;
4. Placing the responsibility for operation and maintenance of the common property in the association;
5. Giving every owner of a dwelling unit voting rights in the association; and
6. If the development will combine rental and for sale dwelling units, stating the relationship between the renters and the homeowner's association and the rights renters shall have to the use of the common land.

(1) Performance bond or bonds which shall insure to the town that the dedicated public streets, utilities, and other common development facilities shall be completed by the developer within the time specified in the final development plan;

(m) Covenant to run with the land, in favor of the town and all persons having a proprietary interest in any portion of the development premises, that the owner of the land or successors in interest will maintain all interior streets, parking areas, sidewalks, common land, parks and plantings which have not been dedicated to the town in compliance with the town ordinances; and

(n) Additional information required by the town.

(D) *Standards.* The land usage, minimum lot area, yard, height, and accessory uses shall be determined by the requirements set forth below, which shall prevail over conflicting requirements of this chapter or the Chapter 152.

(1) Unless otherwise waived by the Council, and as limited in this chapter, the minimum lot, height, and yard requirements of the zoning district in which the development is located shall apply. Waivers shall not be granted on required yards located on development boundaries.

(2) The Council may require that open space or screening be located along all or a portion of the development boundaries.

(3) All public streets, water mains, and sanitary sewer and storm sewer facilities shall comply with appropriate ordinances and specifications of the town.

(4) Any land gained within the development because of the reduction in lot sizes below minimum zoning ordinance requirements shall be placed in common land and landscaped as provided in the final development plan. **COMMON LAND**, as used in this section, refers to land retained in private ownership for the use of the residents of the development or to land dedicated to the general public.

(5) Developments or portions thereof which are being developed for sale or resale shall contain common land in area totaling not less than 25% of the net development area.

(6) Spaces for off-street parking and loading shall be provided in accordance with §§ 154.120 through 154.125.

(7) Signs, on-site shall be subject to the provisions of §§ 154.140 through 154.148.  
(Zoning Code, Art. II Part II)

***MEDICAL MARIJUANA***

**§ 154.080 PURPOSE.**

The purpose of this section is to implement A.R.S. Title 36, Chapter ~~28.1 (remove 23.1)~~, entitled "Arizona Medical Marijuana Act". #54  
(Ord. 2017-02, passed 3-23-2017)

**§ 154.081 LOCATION REQUIREMENTS.**

(A) A medical marijuana dispensary is allowed in C-2 Districts as a conditional use. A medical marijuana cultivation/infusion facility is allowed in the C-2 Zoning Districts as a conditional use.

(B) The locations are limited to the following.

(1) A medical marijuana dispensary or medical marijuana cultivation/infusion facility shall not be operated or maintained on a parcel within 1,320 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel where the medical marijuana dispensary or medical marijuana cultivation/infusion facility is located to the property line of another parcel containing the following:

(a) Another medical marijuana dispensary or medical marijuana cultivation/infusion facility;

(b) A child care facility;

(c) A charter school, private school, or public school which provides elementary, secondary, or college education;

(d) A church, synagogue, temple, or similar religious worship building;

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(e) A public park, library, community building, or any land owned by the town or in which the town owns an interest, excluding public streets;

(J) Sale or consumption of alcoholic beverages, beer, wine or spirits;

(g) Adult entertainment, hotel, motel, or convenience store; or

(h) Domestic violence shelter, domestic violence counseling, or drug or alcohol counseling.

(2) A medical marijuana dispensary or medical marijuana cultivation/infusion facility shall not be operated or maintained on a parcel within 500 feet from a residential zoning district or the property line of a parcel solely devoted to a residential use in any zoning district, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use.

(3) Medical marijuana cultivation/infusion for a caregiver or patient's residence in a residential district is not permitted, unless the location is greater than 25 miles from a licensed medical-marijuana dispensary as allowed by the state.

(Ord. 2017-02, passed 3-23-2017)

**§ 154.082 OPERATION REQUIREMENTS.**

Any medical marijuana dispensary or cultivation/infusion facility, except within a residential home, shall comply with the following requirements as well as those contained within A.R.S. Title 36, Chapter 28.1.

(A) The business shall be located in a permanent building, with an engineered foundation that meets the town building code, and not located in a mobile home, trailer, cargo container, motor vehicle, or similar personal property.

(B) Only one secured exterior doorway shall be allowed for the purpose of ingress or egress. The maximum size tenant space shall be limited to the square footage dedicated for such use with one exit. Any existing doorways beyond this allowance shall be permanently closed by removing the door and frame and filling in the opening with permanent construction to match the exterior wall.

(C) The business and tenant space must comply with the town's applicable building code and fire code requirements.

(D) Drive-through facilities are prohibited.

(E) The medical marijuana dispensary is limited to the hours of operation not earlier than 8:00 a.m. and not later than 6:00 p.m.

(F) Medical marijuana remnants or bi-products shall be disposed of according to an approved plan and not placed within the facility's exterior refuse containers.

(G) There shall be no emission of dust, fumes, vapors, or odors into the environment from the premises.

(H) A security plan is required, which shall include, but is not limited to, the following:

(1) The single doorway for the facility shall provide a security vision panel, employee service entrances and exits, or a 180 degree rotatable viewer. If doorway is transparent, the door shall be designed with a material that is either impact-resistant or restricts entry by means of a wrought iron gate;

(2) Closed circuit television cameras, operating 24 hours a day, shall be provided at the building's exterior entrance and inside the building at a designated service area;

(3) All lighting for the site shall be brought into conformance with the current town lighting standards. The building entrance of the business shall be illuminated from dusk till dawn, activated by photocell relay to the lighting controller;

(4) No one under the age of 18 shall enter the establishment; and

(5) The plan shall provide for the proper removal and disposal of marijuana residue and by-products.

(Ord. 2017-02, passed 3-23-2017)

**§ 154.083 USE ACCEPTANCE.**

(A) A zoning administrative application shall be processed, certifying that all town regulations for the medical marijuana dispensary or cultivation/infusion facility are in compliance with the provisions set forth in this subchapter.

(B) The use shall not commence without the Zoning administrator or designee issuance of an acceptance letter. The application shall include, but is not limited to, the following items:

(1) A project submittal form with applicable fee. In addition to all other applicable fees, the applicant shall pay an application fee of \$5,000;

(2) The property owner's letter of authorization for the use;

(3) The name and location of the dispensary's off-site medical marijuana cultivation facility, if applicable;

(4) A map showing the location in compliance with the separation requirements listed in § 154.081;

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- (5) A copy of operating procedures adopted in compliance with A.R.S. § 36-2804(b)(1)(c);
- (6) A site plan;
- (7) A floor plan of the building or tenant space;
- (8) If applicable, building permits, which require a separate submittal, in compliance with the town's building code and fire code;
- (9) A security plan, in compliance with this subchapter; and
- (10) Proof that the applicant is a registered non-profit entity as defined by the A.R.S. §§ 36-2801(J) and 36-2806.  
(Ord. 2017-02, passed 3-23-2017)

**§ 154.084 DEFINITIONS.**

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

***MEDICAL MARIJUANA.*** All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

***MEDICAL MARIJUANA CULTIVATION OR INFUSION.***

(1) Cultivation is the process by which a person grows a marijuana plant. A facility shall mean a building, structure, or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from a medical marijuana dispensary.

(2) Infusion is the process by which medical marijuana (cannabis) is incorporated into consumable edible goods by cooking or blending.

***MEDICAL MARIJUANA DISPENSARY.*** A non-profit entity defined in A.R.S. § 36-2801(11) that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

***MEDICAL MARIJUANA QUALIFYING PATIENT.*** A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801.13.  
(Ord. 2017-02, passed 3-23-2017)

**§ 154.085 USE REGULATIONS AND EFFECT OF SUBCHAPTER.**

(A) Nothing herein shall be construed to allow or permit a person to engage in, nor does it prevent the imposition of any civil, criminal, or other penalty for engaging in the following conduct prohibited by A.R.S. § 36-2802:

- (1) Undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice;
- (2) Possessing or engaging in the medical use of marijuana:
  - (a) On a school bus;
  - (b) On the grounds of any preschool or primary or secondary school; or
  - (c) In any correctional facility.
- (3) Smoking marijuana:
  - (a) On any form of public transportation; or
  - (b) In any public place.
- (4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana except the registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment; or
- (5) Using marijuana except as authorized by law.

(B) Final passage of this subchapter by the Town Council shall not be construed to rescind or revoke the authority of a marijuana dispensary or a marijuana infusion facility to continue its lawful operation, providing it has been issued all of the following:

- (1) Town of business license and privilege tax license, zoning clearance letter, final occupancy permit;
- (2) State Department of Health Marijuana Dispensary Registration Certificate, and/or State Department of Health Certificate for a Marijuana Infusion Facility, and State Department of Health approval to operate a marijuana dispensary and/or approval to operate a marijuana infusion facility, and/or amended State Department of Health Dispensary Registration Certificate;
- (3) If at the time of passage of this section the holder of an State Department of Health Medical Marijuana Registration Certificate, or an amended State Medical Marijuana Registration Certificate, State Department of Health Certificate for a Medical Marijuana Infusion Facility has an application pending

before the State Department of Health requesting a permit to operate a medical marijuana dispensary and/or a medical marijuana infusion facility and the holder has obtained from the town a zoning clearance letter, and/or a temporary or final occupancy permit, and in the opinion of the Zoning Administrator the applicant has expended significant sums of money in reliance on the zoning clearance letter or other preliminary documents, the Zoning Administrator may consider the application as being "grand fathered" and upon receipt of final documents from the State Department of Health approving the operation issue any final permits required by the town to operate the dispensary or the infusion facility; and

(4) Should the holder of any such certificate disagree with the decision of the Zoning Administrator concerning "grand fathered" status, the holder may file a notice of appeal to the Town Council. Said notice of appeal shall be filed with the Town Clerk not later than ten business days after receipt of the decision. The Council shall hear the appeal at a special or regular Council meeting not less than ten nor more than 30 days after receipt of the notice of appeal unless a different time period is mutually agreed upon.

(Ord. 2017-02, passed 3-23-2017)

### ***LANDSCAPING, WALLS, SCREENING DEVICES, AND SWIMMING POOLS***

#### **§ 154.100 PURPOSE.**

This subchapter is intended to provide standards for landscaping, walls, and screening devices, the creation of an attractive appearance, and by screening of uses which may be unattractive to the public eye.

(Zoning Code, Art. III Part I)

#### **§ 154.101 APPLICABILITY.**

This subchapter shall apply to all new uses of land and additions to all existing buildings and uses in all zoning districts except the one-family districts.

(Zoning Code, Art ID Part I)

#### **§ 154.102 PROCEDURE.**

(A) Any proposed building or use other than a single-family residence shall be clearly shown on a site plan indicating the location of existing and proposed buildings, parking areas, street improvements, location of landscaped areas, types of landscaping materials, watering system, walls, and screening devices. A copy of the site plan shall be submitted to the Zoning Administrator at the time of application for a building permit. The Zoning Administrator shall review and approve the site plan prior to the



issuance of a building permit. If the building or site requires rezoning, variance or use permit approval, or site plan review, the site plan shall be reviewed and approved by the Council.

(B) Landscaping, watering devices, walls, pools, and screening structures shall be installed in accordance With the approved site plan.  
(Zoning Code, Art. III Part I)

### § 154.103 DEFINITIONS.

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

**LANDSCAPING.** Include trees, shrubs, ground cover, vines, walkways, ponds, fountains, sculpture, or other organic and inorganic materials used for creating an attractive appearance.

**SCREENING DEVICES.** Any structure installed to conceal areas used for refuse mechanical equipment, parking (service and loading bays or lanes), multi-family habitation, and commercial or industrial activities from adjacent residential districts and from street views.

**WALLS or FENCES.** Any structure intended for the use of confinement, prevention of intrusion, boundary identification, or screening or an activity.  
(Zoning Code, Art. III Part II)

### § 154.104 DESIGN AND DEVELOPMENT STANDARDS.

(A) Each parcel shall be required to provide minimum landscaped areas equal to 10% of the total site area.

(B) Landscaping shall be sufficient to meet the purpose of this subchapter and shall be in accordance with standards as approved by the Town Council.

(C) Provision shall be made for water service to all landscaped areas requiring water.

(D) Lack of maintenance of the landscaped areas by the owner or the lessor of the property shall constitute a violation of this chapter.

(E) All outdoor storage areas for materials, trash equipment, vehicles, or other similar items which are located within 100 feet of a street or a residential district shall be provided with a screening wall, view obscuring fence, or dense hedge sufficient in height to screen such areas from view.

(F) Parking areas shall be screened from street view by the use of walls, berms, or a combination of the two to a minimum height of three feet above the highest finished grade of the parking area. Such screening may be supplemented by up to 25% intermittent landscaping.

(G) Masonry walls at least six feet in height shall be installed along the interior boundaries of the site where the site is adjacent to or across the alley from a residential district. Where deemed desirable, substitution of a screening fence, landscaping screen, or a reduced height of a fence may be permitted by the Town Council.

(H) All fences in the rear yard having an alley must allow for a three-foot by eight-foot inset with a gate, for storage of garbage cans.

(I) All outdoor lighting shall be directed down and screened away from adjacent properties and streets.

(J) Where the unusual nature, size, or location of a specified property justifies the modification of these requirements, the Council may by variance approve a site plan with lesser requirements than those specified in this section.

(K) With Council approval, in C-2, I-1, and 1-2 districts, the fenced-in area for the storage of materials and equipment may include a three-strand barb wire or barbed tape for maximum security. (Zoning Code, Art. III Part II)

#### § 154.105 POOLS AND SWIMMING POOLS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**POOLS.** Include swimming pools, wading pools, fish ponds, or shallow decorative pools in hazardous locations accessible to children.

(B) *Design and development standards.*

(1) All swimming pools or pools hazardous to and accessible to children shall be enclosed by a non-climbable fence not less than five feet nor more than six feet in height so as to prevent uninvited access.

(2) All gates shall be self-closing and self-latching. Exception: gates not intended to provide frequent access to the enclosed area need not be self-closing, and may be secured by a padlock or similar device in lieu of a latch.

(3) The latches shall be at least five feet above the underlying ground or otherwise made inaccessible from the outside to small children. (Zoning Code, Art. III Part I)

***OFF-STREET PARKING AND LOADING*****§ 154.120 PURPOSE.**

This subchapter is designed to provide standards that ensure adequate parking areas for the various uses permitted in this subchapter.  
(Zoning Code, Art. IV Part I)

**§ 154.121 DEFINITIONS.**

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

***FLOOR AREA.*** The cumulative floor areas of the several floors of a building and/or the open land area needed for service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not mean floors or parts of floors used principally for non-public purposes, such as storage, automobile parking, incidental repair, processing or packaging of merchandise, show windows, or for office incidental to the management or maintenance of stores or buildings, or to rest rooms or powder rooms.

***OFF-STREET BOAT OR RECREATIONAL VEHICLE SPACE.*** Space which is primarily utilized for the parking of one boat or recreational vehicle and measuring not less than ten feet by 24 feet.

***OFF-STREET PARKING AREA.*** The area reserved for transient storage of motor vehicles, including parking spaces, maneuvering areas, aisles, and driveways completely located on the property it serves.

***OFF-STREET PARKING SPACE.*** A paved and properly drained parking space for one vehicle, in the form of a rectangle not less than nine feet by 20 feet, excluding driveways or aisles, and with access to a public thoroughfare.  
(Zoning Code, Art. IV Part I)

**§ 154.122 GENERAL REGULATIONS.**

(A) No building permit shall be issued until the applicant has presented satisfactory evidence to the Zoning Administrator that he or she owns or has otherwise available for his or her use, sufficient property to provide the parking required as specified in this section.

(B) The parking requirements of this subchapter are to be met for the addition or enlargement of an existing building or use.

(C) For any new buildings, building expansions, or conversions, plans must be submitted to show how the required parking spaces shall be arranged in the area supplied for that purpose and to indicate sufficient space for turning maneuvers, as well as adequate ingress and egress to the parking area before a permit is granted. All such parking plans shall be submitted, fully dimensioned, to the Zoning Administrator.

(D) Whenever a building permit has been granted and the plans so approved for off-street parking, any permanent use of such off-street parking areas for uses other than said purpose shall constitute a violation of this section. Should the owner or occupants of any building, to whom a permit has been granted containing off-street parking requirements change the use to which the building is put so as to increase the requirement for off-street parking, it shall constitute a violation of this section, until the parking requirements have been complied with.

(E) In the case of mixed uses permitted on a site, the total requirements for off-street parking space shall be the sum of the requirements of the various uses computed separately.

(F) For residential districts, recreational vehicles, boats, trailers, house trailers, camp trailers, or campers not attached to a vehicle shall not be parked in the required front or street side yards. In addition, the parking of more than one commercial vehicle of not more than two-ton capacity, or the parking of any commercial vehicle of more than two-ton capacity, on any lot or street in any residential district shall be considered a commercial use and is prohibited.

(Zoning Code, Art. IV Part I) Penalty, see § 154.999

#### **§ 154.123 PARKING DESIGN AND STANDARDS.**

(A) For Multi-Family Residential, Commercial, Industrial, and Planned Area Development Districts, the following shall apply.

(1) All off-street parking and loading areas shall be surfaced with a permanent pavement striped to requirements herein.

(2) Except where a wall is required, a minimum six-inch high curb or bumper guard shall be constructed so that no part of the vehicle shall extend over or beyond any property line.

(3) Parking spaces and driveways shall be arranged to require ingress and egress from the lot to a street by forward motion of the vehicle.

(B) All required off-street parking and loading spaces shall be connected with a public street by a paved driveway which affords safe and convenient ingress and egress.

(C) All required parking spaces shall be located on the lot, or a contiguous lot, upon which the use is located.

(Zoning Code, Art. IV Part II)

**§ 154.124 PARKING REQUIREMENTS.***(A) Requirements for residential uses.*

(1) There shall be at least two off-street parking spaces for each single-family residence or mobile home.

(2) For multiple-family dwellings, there shall be at least one space for each efficiency apartment, one and one-half spaces for each one- and two-bedroom unit, and two spaces for each dwelling unit containing more than two bedrooms.

*(B) For places of public assembly.*

(1) There shall be at least one parking space for every 400 square feet of floor area.

(2) Parking for restaurants, bars, and other dining establishments, there shall be one parking space for every 50 square feet of floor area.

(3) Parking for general office buildings, retail and other commercial uses, there shall be one parking space for every 300 square feet of floor area at each floor level.

(4) For industrial uses, there shall be two parking spaces for every three employees for the shift with the greatest number of employees.

(5) For warehousing, there shall be one parking space for every 1,000 square feet of the first 10,000 square feet and an additional one parking space for every 5,000 square feet remaining of building area.

(6) For clinics and doctor's offices, there shall be one parking space for every 150 square feet of office area and one parking space for every physician.

(7) For institutions of religious, charitable or philanthropic nature, nursing homes, and convalescent homes, there shall be one parking space for every three beds, one parking space for every three employees, and one parking space for every physician.

(8) For schools, there shall be one parking space for every three students in senior high schools and educational institutions of higher grade level, and one parking space for every two employees and instructors. For elementary schools and junior high schools, there shall be one parking space for every two employees and instructors.

(9) For churches, there shall be one parking space for every ten seats. Where pews are used, 20 inches of pew space shall constitute one seat. Accessory church buildings shall be provided with parking as provided above for office, classroom, or other uses.

(10) For any uses not similar to those specifically listed, the Town Council shall determine the amount of parking spaces required.

(Zoning Code, Art. IV Part II)

#### **§ 154.125 LOADING REQUIREMENTS.**

(A) At least one loading space, ten feet in width and 35 feet in length, shall be required for each commercial and industrial use.

(B) Such loading spaces shall be located in the rear yards.

(Zoning Code, Art. IV Part II)

### ***SIGN REGULATIONS***

#### **§ 154.140 PURPOSE.**

This subchapter is intended to regulate signs in order to promote the general welfare of the community, to protect property values, to preserve the beauty and character of the town, and to promote the public safety, welfare, convenience, and enjoyment of travel within the town.

(Zoning Code, Art. V Part I)

#### **§ 154.141 APPLICABILITY.**

(A) A sign permit shall be required before the erection, re-erection, construction, maintenance, or location of all signs regulated by this subchapter.

(B) The Zoning Administrator shall issue a sign permit only if the proposed sign, construction, alteration, re-erection, maintenance, and location of the sign complies with provisions of this regulation.

(C) Where there is a conflict between the provisions of this subchapter and provisions of other regulations of the town, the more restrictive regulations shall apply.

(Zoning Code, Art. V Part I)

#### **§ 154.142 GENERAL PROVISIONS.**

(A) The source of illumination shall be screened so as not to be visible from any adjacent property or streets.

(B) Signs shall be located at least five feet from any property lines.

(C) All freestanding signs shall be installed with landscaped areas at the base having a minimum area of two square feet for each square foot of sign area and consistent with the landscaping requirements of this subchapter.

(D) Non-public signs shall not encroach on public property, public easements, or public right-of-way, unless specifically authorized by the Town Council by a conditional use permit.

(E) Non-conforming signs as defined by this subchapter may be continued in use with reasonable repair and maintenance. Any such sign which is damaged by natural or human-made causes or vandalized must be restored within 90 days from date of damage or shall be removed at the owner's expense. (Zoning Code, Art. V Part I) (Ord. 2002-05, passed 4-25-2002)

#### **§ 154.143 SIGN STANDARDS.**

(A) Single-family dwellings shall be permitted one non-illuminated sign, not exceeding three square feet in area, for names and addresses of its occupants.

(B) Home occupations shall be permitted one non-illuminated wall or fascia mounted sign not to exceed 12 square feet in area.

(C) Public facility identification signs shall be permitted in any zoning district. Such signs are limited to one per property, may be illuminated and shall not exceed 24 square feet in area. Maximum height of these signs shall not exceed eight feet. This section pertains to signs identifying churches, schools, parks, public and private recreational facilities, hospitals, public institutions, and other public facilities.

(D) For multi-family uses, not more than two signs per lot, not exceeding 24 square feet in total sign area, nor eight feet in height for freestanding signs, containing names and addresses of the land or building shall be permitted.

(E) For C-1, C-2, I-1, I-2, and PAD zones, business identification signs for individual businesses not within a center shall not exceed a cumulative total of 100 square feet per property. Such signs may be wall or fascia mounted or freestanding. Freestanding signs shall not exceed a height of 12 feet. There shall be not more than one freestanding sign per street frontage of property.

(F) For C-1, C-2, I-1, I-2, and PAD zones consisting of three or more businesses associated by common agreement or common ownership with common parking facilities shall be permitted as follows:

(1) One freestanding center identification sign shall be permitted per street frontage not exceeding a maximum sign area of 50 square feet and a height of 12 feet maximum.

(2) Business identification signs for individual businesses within a center shall not exceed 24 square feet per business. Such signs shall be wall or fascia mounted.

(G) Temporary signs shall be permitted in the C-1, C-2, I-1, I-2, and PAD zones for a maximum of 30 consecutive days.

(Zoning Code, Art. V Part II)

#### § 154.144 SIGN CONSTRUCTION, MAINTENANCE, AND ENFORCEMENT.

(A) *Construction specifications.* All signs shall comply with the provisions of the Uniform Building and Sign Codes.

(B) *Sign maintenance and enforcement.*

(1) Each sign shall be maintained in a safe, presentable, and good condition, including the replacement of defective parts, painting, repainting, cleaning, and other maintenance required.

(2) The Zoning Administrator shall require compliance or removal of any sign determined by the Town Council to be in violation of this section.

(3) The Zoning Administrator shall remove or cause to be removed any abandoned, dangerous, defective, illegal, prohibited, or non-conforming sign subject to removal which has not been removed within the time specified. Notice shall be mailed to the property owner as shown on the latest tax assessment roll or given to the occupant on the property or their representative upon which the sign is located. Any person having an interest in the sign may appeal the determination within ten days after the date of mailing the notice. The appeal shall be heard by the Council at its next scheduled meeting.

(Zoning Code, Art. V Part III)

#### § 154.145 SIGN PERMITS AND FEES.

(A) *Fees for signs.*

(1) A sign permit shall be secured prior to the installation of any signs according to the following (except billboard signs which are controlled by §§ 154.147 and 154.148): there shall be a minimum charge of **\$100 for up to two signs and \$200 for three or more signs. (Remove \$15 or \$0.50 per square foot of sign area.) This fee is in addition to the fee for a building permit.**

(2) These sign permit fees shall be doubled in the event that any sign is installed prior to the issuance of a sign permit.

(B) *Signs not requiring sign permits.*

(1) No sign permit shall be required for non-illuminated signs under three square feet used for residential purposes.

(2) No sign permit shall be required for temporary signs and real estate signs which are not greater than six square feet in area.



(3) No sign permit shall be required for temporary political signs.  
(Zoning Code, Art. V Part IV) (Ord. 99-01, passed 2-11-1999)

### § 154.146 DEFINITIONS.

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

***BILLBOARD SIGN.*** A structure on which is portrayed information which directs attention to a business, commodity, service, entertainment, or product not necessarily related to the other uses existing on the premises upon which the structure is located. A sign shall be classified as a ***BILLBOARD*** unless its advertising area is entirely devoted to identifying the business operating on the premises or to a product that is manufactured on the premises. The fact that a product is merely sold on the premises is not sufficient cause for the sign classification to be deleted from the billboard sign category.

***SIGN, AREA OF.*** The area in square feet of the smallest regular geometric figures, or combination of regular geometric figures, which figure or figures entirely enclose both the copy and facing, including embellishments, ornamentations, or moldings of the sign and its face or faces.  
(Ord. 99-02, passed 2-11-1999)

### § 154.147 BILLBOARD SIGNS.

(A) Billboard signs are not a permissible use as a matter of right in any zoning district in the town.

(B) Billboard signs may be allowed as a conditional use in any commercial or industrial district in the town providing that the Town Council makes the determination that the billboard will not be detrimental to the value of the surrounding property and will be in harmony with the existing structures in the area.

(C) The granting or denial of a conditional use permit for a billboard sign rests solely with the discretion of the Town Council. The Council's decision on any particular application shall set no precedence whatsoever. Each case shall be examined on its own merits.

(D) If the Council elects to grant such a conditional use permit, it shall be on such terms as the Council deems appropriate including, but not limited to, such matters as height, size, number of facings, and duration. However, in no case shall the permit be less restrictive than the requirements of state law currently set forth in A.R.S. §§ 28-7902 et seq.

(E) No such conditional use permit shall be considered without first holding a public hearing and giving proper notice.  
(Ord. 99-02, passed 2-11-1999)

**§ 154.148 FEES FOR BILLBOARD SIGNS.**

In addition to any application fees, variance fees, building permit fees, and any other fees that may be required, there shall be a minimum fee of \$1,500 or \$3 per square foot of sign area, whichever is greater.

(Ord. 99-02, passed 2-11-1999)

***CITIZEN REVIEW PROCESS*****§ 154.160 PROCESS.**

(A) This subchapter shall apply to rezonings, specific plan applications or amendments that require a hearing, and any ordinance that adds, modifies, or removes any regulation that governs the use of an owner's property.

(B) This subchapter is adopted to comply with A.R.S. § 9-462.03.  
(Ord. 2006-11, passed 12-14-2006)

**§ 154.161 PROCEDURE.**

(A) Adjacent landowners and other potentially affected citizens will be notified of any such application as set forth in A.R.S. § 9-462.04 and with additional notice as the Zoning Administrator deems necessary.

(B) Such notice will inform the adjacent landowners and potentially affected citizens of the proposed rezoning, specific plan application, or changes in regulation.

(C) Adjacent landowners and potentially affected citizens will be given the opportunity to file written letters of concern with staff at least 15 days prior to any hearing.

(D) Staff shall provide such letters of concern to the applicant and to the hearing body. The applicant or staff, if staff has generated the rezoning, plan application, or change of regulations, shall address the concern as part of its application and provide a copy of that response to the concerned citizen who filed the letter of concern at least five days prior to any hearing to allow the concerned citizen time to prepare a rebuttal to be used at the hearing, if the concerned citizen chooses to do so.

(E) If the town staff receives more than ten letters in opposition, the hearing body may not take action the day the hearing is scheduled. Instead, the hearing body will hold the public hearing as scheduled and take public comments. Thereafter, without closing the public hearing, the hearing body will table the hearing to a date certain not more than 15 days thereafter.

(F) At the continued hearing, the hearing body will listen to any additional testimony from those who had not spoken previously. The board will also review any additional written material submitted. Thereafter, it will allow the applicant a reasonable time for rebuttal. The hearing body shall then close the hearing and is free to render its decision.

(G) If letters of opposition or concern are received but number less than ten, the hearing body may make its decision at the regular scheduled hearing.  
(Ord. 2006-11, passed 12-14-2006)

**§ 154.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) It is hereby declared to be unlawful to construct, erect, install, alter, change, maintain, or use any building, structure, or fence, or to use any lot or premises contrary to or in violation of any provision of this chapter.

(2) Any person, firm, or corporation whether as principal, owner, agent, tenant, or otherwise who violates, disobeys, omits, or refuses to comply with or who resists the enforcement of any of the provisions of this chapter and any amendment thereto shall, upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding \$300 or by imprisonment for a term not exceeding three months or by both fine and imprisonment. Each day a violation is permitted to exist shall constitute a separate offense.

(C) Any violation of §§ 154.080 through 154.085 shall be punishable as a Class 1 Misdemeanor punishable by a fine not to exceed \$2,500 and a jail term not to exceed six months.  
(Zoning Code, Art. I Part II) (Ord. 2011-02, passed 3-24-2011; Ord. 2017-02, passed 3-23-2017)



## TABLE OF SPECIAL ORDINANCES

Table

I. ZONING

II. TAXATION



**TABLE I: ZONING**

<i>Ord.!Res.</i>	<i>Date Passed</i>	<i>Description</i>
Ord. 1997-01		Changes property from R-1-6 to R-2
Ord. 1997-03		Changes property from R-1-9 to R-2
Ord. 1998-01		Changes property from R-1-9 to R-2
Ord. 1998-02		Changes property from R-1-9 to R-2
Ord. 1998-06		Changes property from public to R-3 and R-4
Ord. 2001-03		Freeway annexation
Ord. 2002-04		Freeway annexation
Ord. 2004-01		Rezoning 4.7 acres
Ord. 2006-05		Zoning change for property from C-1 to R-1-6

