Town of Superior

2024

TOWN CODE

Town of Superior

Town Code

Adopted by

Ordinance 115, August 15, 2014

Updated by:

Ordinance 14-123 11/06/14
Ordinance 16-137 06/23/16
Ordinance 17-139 01/12/17
Ordinance 17-142 09/14/17
Ordinance 17-143 11/12/17
Ordinance 18-147 06/14/18
Ordinance 18-150 09/13/18
Ordinance 18-151 10/11/18
Ordinance 18-152 10/11/18
Ordinance 2020-163 05/14/20
Ordinance 2020-167 09/10/20
Ordinance 2020-168 10/08/20
Ordinance 2020-169 10/08/20
Ordinance 2021-172 01/14/21
Ordinance 2021-173 04/08/21
Ordinance 2024-186 05/09/24

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Councilmember Bruce Armitage

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CHAPTER 1 - GENERAL

Article 1-1 RULES, DEFINITIONS, CODE DESIGNATION1

Section 1-1-1 How Code Designated, Cited, and Acceptance
Section 1-1-2 Rules of Construction and Definitions
Section 1-1-3 General Rule Regarding Definitions

Section 1-1-1 How Code Designated, Cited and Acceptance

A. The ordinances embraced in the following Chapters, Articles and Sections shall constitute the "Superior Town Code" and shall be so designated, and may be so cited. A specific Section may be cited by stating the Chapter number first, followed by the Article number, followed by the Section number. Example: This Section may be cited as Superior Town Code Section 1-1-1.

B. This Town Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the Town of Superior, which may be amended from time to time.

Section 1-1-2 Rules of Construction and Definitions

A. The rules and the definitions set forth in this Chapter shall be observed in the construction of this Code unless such construction would be inconsistent with the manifest intent of the Mayor and Council.

B. Code provisions shall be liberally construed to affect their objects and to promote justice.2

Section 1-1-3 General Rule Regarding Definitions

A. Unless otherwise provided in this Code, all words and phrases shall be construed and understood according to the common and approved usage of the language, and technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

1**Editors' Notes: Throughout this Code these note appear as research aids, drafting notes, historical references and cross reference to similar or associated state or federal statute where appropriate. These Editors' Notes are not a part of the Superior Town Code.** This is a practice embodied in the former Town Code. The original Town Code prepared by Bill Tifft, Town Attorney, and declared to be a public record by Resolution No. 8 and adopted by Ordinance No. 5, June 16, 1977. The original Town Code was drafted through an Urban Planning Grant made by the Department of Housing and Urban Development to the Governor, under the provisions of the Housing Act of 1954, as amended. Editorial and clerical assistance was provided by the League of Arizona Cities and Towns. This revised Code is based upon the original Code as updated. This Code was declared to be a public record by Resolution No. 543, and adopted by Ordinance No. 115 effective the 15th day of September, 2013.

2**Editors' Notes:** State law reference–General rules of statutory construction and definitions, A.R.S. §§ 1-211 – 1-215.

B. In all provisions of this Code, unless the context clearly indicates otherwise, the following rules and/or definitions shall apply:

1. Acts of Agents: When the provisions of any Section of this Code prohibit the commission of an act, not only the person actually doing the prohibited act or omitting the directed act, but also the employer and all other persons concerned with or aiding or abetting the said person shall be guilty of the offense described and liable for any penalty established for said act.

2. Town: Whenever the word "Town" is used, it shall be construed to mean the Town of Superior, Arizona.

3. Code: The words "the Code" or "this Code" shall mean the "Superior Town Code".

4. Council: Whenever the word "Council" is used, it shall be construed to mean the Mayor and Council of the Town of Superior, Arizona.

5. Day: A "day" is the period of time between any midnight to the midnight following.

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

7. Department, Board, Commission, Office, Officer, or Employee: Whenever any "department, board, commission, office, officer, or employee" is referred to, it shall mean a department, board commission, office, officer, or employee of the Town unless the context clearly indicates otherwise.

8. Gender; Singular and Plural: Words of the masculine gender include the feminine and words of the feminine gender shall include the masculine; and words in the singular number include the plural and words in the plural number include the singular.

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

10. Joint Authority/Majority Vote: All words purporting to give a joint authority to three or more persons shall be construed as giving such authority to a majority of such persons, at a meeting where a quorum is present, unless it shall be otherwise expressly declared.

11. Month: The word "month" shall mean a calendar month.

12. Oath: "Oath" includes affirmation or declaration.

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

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

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

16. Preceding, Following: The words "preceding" and "following" mean next before and next after, respectively.

17. Property: The word "property" shall include real and personal property.

18. Real Property: Real property shall include lands, easements, rights of way, tenements and hereditaments, unless expressly otherwise provided.

19. Shall, May: "Shall" is mandatory and "may" is permissive.

20. Shall Have Been: The words "shall have been" include past and future cases.

21. Signature or Subscription by Mark: "signature" or "subscription" includes a mark when the signer cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his/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 and federal law regarding electronic signatures shall apply.

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

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

24. Tenses: The present tense includes the past and future tenses, and the future includes the present.

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

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

27. Week: A "week" consists of seven (7) consecutive days.

28. Writing: "Writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or

authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

29. Work Day: means each day, Monday through Friday, except holidays observed by the Town.

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

Article 1-2 RULES OF CONSTRUCTION

Section 1-2-1 Additional Rules of Construction
Section 1-2-2 References to this Code
Section 1-2-3 Conflicting Provisions—Different Chapters
Section 1-2-4 Conflicting Provisions—Same Chapter
Section 1-2-5 Section Headings

Section 1-2-1 Additional Rules of Construction

In addition to the rules of construction specified in Article 1-1, the rules set forth in this Article shall be observed in the construction of this Code.

Section 1-2-2 References to this Code

All references to Chapters, Articles, or Sections are to the Chapters, Articles, and Sections of this Code unless otherwise specified.

Section 1-2-3 Conflicting Provisions--Different Chapters

If the provisions of different Chapters of this Code conflict with or contravene each other, the provisions of each Chapter shall prevail as to all matters and questions arising out of the subject matter of such Chapter.

Section 1-2-4 Conflicting Provisions--Same Chapter

If conflicting provisions are found in different Sections of the same Chapter, the provisions of the Section which is the most stringent shall prevail unless such construction is inconsistent with the meaning of such Chapter, or otherwise expressly provided.

Section 1-2-5 Section Headings

Headings of the several Sections of this Code are intended as convenience to indicate the contents of the Section and do not constitute part of the law, except to the extent necessary for construction or interpretation of the Section, nor unless expressly so provided, shall they be so deemed when any of such Section, including the heading, is amended or reenacted.

Article 1-3 EFFECT OF REPEAL OR CHANGE IN CODE

Section 1-3-1 Effect of Repeal
Section 1-3-2 Subsequent Ordinance as Superseding Former Law
Section 1-3-3 Penalty Altered by Subsequent Ordinance; Effect
Section 1-3-4 Repeal of Code Provision and Substitution of Penalty; Effect
Section 1-3-5 Repealing Ordinance; Effect on Pending Action or Accrued Right

Section 1-3-1 Effect of Repeal

When any ordinance repealing a former ordinance, clause or Code 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 already imposed or any action to enforce this Code for a violation which occurred 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.

Section 1-3-2 Subsequent Ordinance as Superseding Former Law

When an ordinance has been adopted and has become law, no other Code, ordinance, resolution or other provision is continued in force simply because it is consistent with the provision enacted. In all cases, in which a repeal is provided for by a subsequent ordinance, the ordinance, laws and rules theretofore in force, whether consistent or not with the provisions of the subsequent ordinance, shall be deemed repealed and abrogated.

Section 1-3-3 Penalty Altered by Subsequent Ordinance; Effect

When the penalty for an offense is prescribed by one Code provision and altered by a subsequent Code provision, the penalty of such second provision shall not be inflicted for a breach of the law committed before the second took effect, but the offender shall be punished under the law in force when the offense was committed.

Section 1-3-4 Repeal of Code Provision and Substitution of Penalty; Effect

When by the provisions of a repealing ordinance a new penalty is substituted for an offense punishable under the Code provision repealed, such repealing ordinance shall not exempt any person from punishment who has offended against the repealed law while it was in force, but in such case the rule prescribed in Section 1-3-3 shall govern.

Section 1-3-5 Repealing Ordinance; Effect on Pending Action or Accrued Right

No action or proceeding commenced before a repealing ordinance takes effect, and no right accrued is affected by such repealing ordinance, but proceedings therein shall conform to the new ordinance as far as applicable.

Article 1-4 SEVERABILITY OF PART OF CODE

Section 1-4-1 Severability

Section 1-4-1 Severability

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 invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining provisions of the Code.

Article 1-5 PENALTIES

Section 1-5-1 Violation of Code Provisions
Section 1-5-2 Authority to Require Reimbursement of Costs Incurred

Section 1-5-1. Violation of Code provisions

A. **Civil Violations**. Except for those acts or omissions to act declared to be a misdemeanor, whenever in this Code, or any code incorporated herein, any act or omission to act is declared to be prohibited, unlawful, an infraction, a violation or an offense, such act or omission to act shall constitute a civil violation. Civil violation prosecution shall be as provided in Chapter 6 of this Code. In the alternative to civil violation proceedings, the Town may elect to enforce the provisions of this Code by any action available at law or equity.

B. **Criminal Violations**. Any person found guilty of violating any provision of this Code that is declared to be a misdemeanor shall be guilty of a class one misdemeanor and upon conviction thereof shall be punished by a fine not to exceed the limits authorized by A.R.S. 9-240, as amended from time to time, or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described. The court may place a violator on probation for up to six (6) months. Criminal violation prosecution shall be as provided in Chapter 6 of this Code.[3]

C. **Civil Traffic Violations**. Any violation of or failure or refusal to do or perform any act required by Chapter 15 of this Code shall constitute a civil traffic violation. Civil traffic violations are subject to the provisions of Title 28, Arizona Revised Statutes, any amendments thereto, and the Rules of Procedure for Civil Traffic Offenses.

Section 1-5-2 Authority to Require Reimbursement of Costs Incurred

A. In addition to any penalty authorized by state law or this Code, the Town Magistrate is also authorized to require restitution as a part of sentencing for violations of this Code or state statute, including, but not limited to, imposing a requirement that costs of prosecution be reimbursed as a condition of probation or otherwise. Reimbursement of costs of prosecution shall be required as part of sentencing if a defendant is found guilty after trial and when said reimbursement is included as part of a plea agreement between the defendant and the Town Attorney.

B. The Court shall adopt guidelines to establish minimum reimbursement of costs to be imposed on convictions for civil offenses, traffic offenses, and misdemeanors.

C. Payment of costs of prosecution fees may be enforced as any other fine or penalty may be enforced under Arizona State law. Late fees may be charged to the defendant as well as fees for proceedings to enforce penalties including order to show cause or contempt proceedings required for said enforcement. The Magistrate is authorized to prepare and enforce a schedule of such fees.

3**Editors' Notes**: State law reference A.R.S. 9-240

Article 1-6 REPEAL OF EXISTING ORDINANCES

Section 1-6-1 Effective Date of Repeal
Section 1-6-2 Ordinances Exempt from Repeal
Section 1-6-3 Effective Date of Code

Section 1-6-1 Effective Date of Repeal

All ordinances of the Town of Superior except those specially exempted in this Article, in force and effect prior to the adoption of this Code, are hereby repealed effective at 11:59 PM on the day preceding the effective date of this Code, but all rights, duties and obligations created by said ordinances shall continue and exist in all respects as if this Code had not been adopted and enacted.

Section 1-6-2 Ordinances Exempt from Repeal

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

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

B. Any ordinance making an appropriation.

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

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

E. Any bond of any public officer.

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

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

H. Ordinances establishing, naming, or vacating streets, alleys, or other public places.

Section 1-6-3 Effective Date of Code

Each and every Section of this Code as herein contained and hereby enacted shall take effect and be in force on and after twelve o'clock midnight on the 15th day of September, 2013

CHAPTER 2 - MAYOR AND COUNCIL

Article 2-1 COUNCIL

Section 2-1-1 Elected Officers
Section 2-1-2 Corporate Powers
Section 2-1-3 Duties of Office
Section 2-1-4 Vacancies in Council
Section 2-1-5 Compensation
Section 2-1-6 Oath of Office
Section 2-1-7 Bond
Section 2-1-8 Fees by Resolution
Section 2-1-9 Financial Disclosure

Section 2-1-1 Elected Officers

The elected officers of the Town shall be a Mayor and six (6) Council members. The Mayor and Council members shall constitute the Council and shall continue in office until assumption of duties of office by their duly elected successors, except as otherwise provided by law. The regular term of office for the members of the Council shall be four (4) years as provided by state law and this Town Code.4

Section 2-1-2 Corporate Powers

The corporate powers of the Town shall be vested in the Mayor and 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.5

Section 2-1-3 Duties of Office

The Mayor and members of the Council shall assume the duties of office following: (a) their appointment; or (b) following the canvass of votes of the consolidated state primary or general election at which they were elected in accordance with state law, provided that if no general election is held, the duties of office shall be assumed on the date established pursuant to State law and this Code; or (c) the date they are declared elected if the general election is inconclusive. A tie vote at a general election shall be decided in a manner established by the Mayor and Council at a meeting called for said purpose.

Section 2-1-4 Vacancies in Council

The Council shall fill by appointment, for the unexpired term of any Councilmember, any vacancy that may occur for whatever reason as provided by State law.6

4**Editor's Notes**: State law reference–Similar provisions, A.R.S. § 9-231(B).

5**Editors' Notes:**State law reference–Similar provisions, A.R.S. § 9-231(A).

6**Editors' Notes**:State law reference–Similar provisions, A.R.S. § 9-235

Section 2-1-5 Compensation

The compensation of elective officers of the Town shall be fixed from time to time by Resolution of the Council in accordance with State law.7Elective officers shall be entitled to reimbursement for mileage and expenses on the same basis as are other Town employees.

Section 2-1-6 Oath of Office

Immediately prior to assumption of the duties of office, the Mayor and each member of the Council shall, in public, take and subscribe to the oath of office.8

Section 2-1-7 Bond

Prior to taking office, the Mayor and members of the Council shall execute and file an official bond provided by the Town, enforceable against the principal and his/her sureties, conditioned on the due and faithful performance of his/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/her official capacity. A person so injured or aggrieved may bring suit on such bond under provisions of the Arizona Revised Statutes. Bonds shall be in such sum as shall be provided by resolution and the premium for such bonds shall be paid by the Town. A blanket bond as may be allowed by law shall satisfy this requirement.9

Section 2-1-8 Fees by Resolution

The Mayor and Council shall, from time to time, adopt or modify any and all fees as called for in this Code by Resolution.

Section 2-1-9 Financial Disclosure

Prior to January 31 of each year, or at any other time required by state statute, the Mayor and each member of the Council shall file a Financial Disclosure Statement in the form prescribed by state statute and prepared by the City Clerk.

Article 2-2 MAYOR

7**Editors' Notes**: State law reference–Similar provisions, A.R.S. § 9-232.01; Arizona Constitution, Art. 4, Pt. 2, § 17.

5 **Editors' Notes:** State law reference, A.R.S. 16-204.

8**Editors' Notes:**State law reference–Similar provisions, A.R.S. § 9-232(B).

9**Editors' Notes:**State law reference–Similar provisions, A.R.S. § 9-302.

Section 2-2-1 Direct Election of Mayor - Term of Office
Section 2-2-2 Vice Mayor
Section 2-2-3 Acting Mayor
Section 2-2-4 Powers and Duties of the Mayor
Section 2-2-5 Absence of Mayor
Section 2-2-6 Failure to Sign Documents

Section 2-2-1 Direct Election of Mayor - Term of Office

A. The Mayor shall be directly elected at large by majority vote of the qualified electorate of the Town pursuant to procedures set forth in Article 2-3 herein and State law.10

B. The Mayor shall serve for a four (4) year term. The Council is empowered to fill any vacancy for any unexpired term in accordance with state law and this code. The appointee shall be an elected member of the Council.11

Section 2-2-2 Vice Mayor

At the first meeting of the Council, following a general election, the Mayor, with Council approval, shall designate one of the Council members as Vice Mayor, who shall serve at the pleasure of the Council. The Vice Mayor shall have the powers to perform the duties of the Mayor during his/her absence or disability.

Section 2-2-3 Acting Mayor

In the absence or disability of both the Mayor and Vice Mayor, the Town Clerk or any member of the Council may call the Council to order and the Council may designate another of its members to serve as Acting Mayor who shall have all the powers, duties and responsibilities of the Mayor during such absence or disability.

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

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

A. He/she shall be the chief executive officer of the Town.

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

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

10**Editors' Notes:** State law reference – A.R.S. 9-232.03
11**Editors' Notes:**State law reference: A.R.S. 9-232.03

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

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

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

   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 buildings street or other public place.
   4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.

G. He/she shall perform such other duties required by State statute, this Code, as well as those duties that may be customarily and generally required of a chief executive officer a Town.[12]

Section 2-2-5 <u>Absence of Mayor</u>

The Mayor shall not be absent from the Town for a period of more than fifteen (15) consecutive days without notification to the Council.

Section 2-2-6 <u>Failure to Sign Documents</u>

If the Mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand, or other documents or instrument requiring his/her signature for five (5) days consecutively then the Vice Mayor or, in his/her absence, a duly appointed Acting Mayor is authorized 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.

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[12]**<u>Editor's Notes</u>**: State law reference–Similar provisions, A.R.S. § 9-236.

Article 2-3 MAYOR AND COUNCIL ELECTION

Section 2-3-1 Primary Election
Section 2-3-2 Non-Political Ballot
Section 2-3-3 General Election Nomination
Section 2-3-4 Election to Office
Section 2-3-5 Election Procedure
Section 2-3-6 Voter Registration Required
Section 2-3-7 Candidate Financial Disclosure
Section 2-3-8 Initiative and Referendum Petitions, Procedure

Section 2-3-1 Primary Election

Any candidate who shall receive at the primary election a majority of all the votes cast for that office shall be declared to be elected to the office for which he/she is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate or the office to which he/she sought election.

Section 2-3-2 Non-Political Ballot

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

Section 2-3-3 General Election Nomination

If at any primary election held, as above provided, there remains any office, or offices for which no candidate is elected, then as to that office, or offices, said election shall be considered to be a primary election for nomination of candidates for such office, or offices, and a second or general municipal election shall be held to vote for candidates to fill same. The two candidates for a given office, for which a candidate was not elected, shall be the two who received the highest number of votes for the respective office at the first (primary) election. There shall be only two candidates at the second (general) election unless two or more candidates received an equal number of votes. In such case, the two receiving the highest number of votes and all candidates who received a number of votes equal to either of them shall be candidates at the second election.

Section 2-3-4 Election to Office

A. The candidates equal in number to the persons to be elected to an office who receive the highest number of votes cast for that office at said general election shall be declared elected.

Section 2-3-5 Election Procedure

Election procedures, qualification to vote and run for office shall be as provided by state statute and this Code. It shall be the duty of the Town Clerk to assure that proper election procedures are followed.

Section 2-3-6 Voter Registration Required

Before any person otherwise entitled to vote at a regular Town primary or general election shall be entitled to vote in such primary or general election, he/she shall be a qualified electorate and resident of

the Town and registered in the office of the Pinal County Recorder as provided in this Code and State law.

Section 2-3-7 Candidate Financial Disclosure

Each candidate for the office of Council member shall file a financial disclosure Statement which shall contain such information as may be required as required by State law.

Section 2-3-8 Initiative and Referendum Petitions, Procedure

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

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

C. Initiative and referendum petitions shall be circulated, filed, signed, and verified in the manner provided by the statutes of the State of Arizona, and all proceedings shall be according to the provisions of said statutes.13

13Editors' Notes: State law reference A.R.S. 19-141

Article 2-4 COUNCIL PROCEDURE

Section 2-4-1 Regular Meetings
Section 2-4-2 Special Meetings
Section 2-4-3 Meetings to be Public
Section 2-4-4 Quorum
Section 2-4-5 Seating Arrangement
Section 2-4-6 Agenda
Section 2-4-7 Consent Agenda
Section 2-4-8 Order of Business
Section 2-4-9 Committees & Commissions
Section 2-4-10 Council Procedures - Conduct of Meetings

Section 2-4-1 Regular Meetings

The Council shall hold regular meetings on the second Thursday of each month at 7:00 p.m., provided that when the day fixed for any regular meeting of the Council falls upon a day designated by law as a legal holiday, such meeting shall be cancelled or it may be set as a special meeting by action of the Council. All regular meetings of the Council shall be held at the Town Hall Auditorium, 199 N. Lobb Ave. Superior, Arizona, unless otherwise declared in accordance with State statutes. The Council may from time to time change the day, time and location of regular meetings by amendment hereof.14

Section 2-4-2 Special Meetings

Upon the request of the Mayor, action of Council, or upon the written request of three (3) Council members, the Clerk shall convene the Council at any time by notifying the members of the Council of the date, hour and purpose of such special meeting. Notice of such meeting shall be made pursuant to State law.15

Section 2-4-3 Meetings to be Public

All proceedings of the Council shall be open to the public as required by state statute, except that upon approval by a majority vote of the Council the Council may meet in executive session in the manner provided by State law.16

Section 2-4-4 Quorum

A majority of the members of the Council shall constitute a quorum for transacting business. A lesser number may adjourn from time to time and compel the attendance of absent Council members.17

14**Editors' Notes**: State law reference–Similar provisions, A.R.S. § 9-233; 38-431.02

15**Editors' Notes:** State law reference–Similar provisions, A.R.S. § 9-233.

16**Editors' Notes:**State law reference–Similar provisions, A.R.S. § 38-431.01(A); 38-431.03

17**Editors' Notes:**State law reference–Similar provisions, A.R.S. § 9-233.

Section 2-4-5 Seating Arrangement

Members shall occupy seats in the Council chamber assigned to them by the Mayor.

Section 2-4-6 Agenda

A. Not less than twenty-four (24) hours prior to each Council meeting and in accordance with State law, the Clerk, under the administrative direction of the Town Manager, shall prepare an agenda and shall furnish each Council member, the Mayor, the Town Manager and the Town Attorney with a copy. Copies shall also be available for public perusal at the meeting.[18]

B. Not less than twenty-four (24) hours prior to each Council meeting and in accordance with State law, or on or before a time fixed by the Council for preparation and distribution of the agenda by resolution, whichever is earlier, the Town Clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the Council, and prepare an agenda packet containing such supporting documents. At least one copy of said packet shall be made available for public perusal at Town Hall. A complete copy of said packet shall be furnished to the Mayor, each Council member, the Town Manager, the Town Attorney and others designated by the Council. Copies of prior meeting minutes to be approved at a Council meeting shall be provided to each Council member, the Town Manager, the Town Attorney and others per Council direction, prior to any regular meeting. In the absence of the Town Clerk, the Manager, or designee, shall prepare and distribute said agenda.

C. The Mayor, any three (3) Council members, Town Manager, Town Attorney or the Town Clerk may place matters on the agenda for consideration by the Council. Repetitive placement of matters previously heard and decided by the sitting Council shall not be permitted.

Section 2-4-7 Consent Agenda

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

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

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

D. Upon objection by any member of the Council to inclusion of any item on the consent agenda, that item shall be removed from the consent agenda forthwith. Such objections may be recorded at any time prior to the taking of a vote on the motion to approve the consent agenda.

18**Editors' Notes**: State law reference - Similar provisions, A.R.S. 38-431.01 et. seq.

All such items shall be considered individually, in the order in which they were objected to, immediately following consideration of the consent agenda

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

Section 2-4-8 Order of Business

A. Rules of Order. Establishment of Council agendas and conducting of business during Town Council meetings shall be done in accordance with State law, this Code, and in the manner set forth in the rules of order adopted by the Town Council in Section 2-4-10.

B. Conduct of proceedings. The Mayor shall preserve order in the meeting, decide all questions of order and conduct the proceedings of the meetings in accordance with the general parliamentary rules contained in Robert's Rules of Order, in all cases to which they are applicable and in which they are not inconsistent with Arizona Revised Statutes, this chapter of the Superior Town Code and any special Rules of Order adopted by the Town Council.[19]

C. Variation in order of business. The Council may vary the order of business set forth on their agenda to accommodate its specific wishes and needs, so long as the business of the Council is taken up for consideration and disposition in a manner in conformity with the intent of this Code.

Section 2-4-9 Committees and Commissions

The Council may by majority vote create such boards, committees and commissions, standing or special, as deemed necessary; the members of the boards, committees and commissions shall be appointed by the Council. They shall consist of as many members and shall perform such duties as the Council may require and shall exist at the pleasure of the Council. No board, committee or commission may be created without Council action. All such boards, committees and commissions shall be subject to the open meeting laws. The Town Attorney shall be the legal advisor to any such board, committee or commission so created.

Section 2-4-10 Council Procedures- Conduct of Meetings

The following rules shall govern the conduct of meetings:

A. Prior discussion. All business matters that require a vote of the Council shall have been previously presented and discussed by the members of the Council at a previous Council meeting. The Council may by majority vote, suspend this rule, and action may be taken on a specific matter on the agenda.

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[19]**Editors' Notes**: State law reference–Power of Council to regulate proceedings, A.R.S. § 9-234.

B. Right of Floor. When recognized by the Mayor, the members shall confine themselves to the question under debate.

C. Right of Appeal. Any member may appeal to the Council from a ruling of the Mayor. The appeal is not debatable and must be put to vote by the Mayor.

D. Voting. No member shall be excused from voting except upon matters involving the consideration of his/her own official conduct or the legal necessity to abstain. In all other cases a failure to vote shall be entered on the minutes as an affirmative vote. On the passage of all measures, a vote shall be taken and the results entered in full upon the record.

E. Roll Call. Upon the request of any member, before the vote on any question has been put, roll call shall be made.

F. Personal Privileges. Members shall have the right to address the Council on a question of personal privilege in which their integrity, character or motives are questioned.

G. Dissents and Protests. Members voting negatively shall have the right to express dissent.

H. Leaving Meeting. Members shall not leave the Council chamber while in session without permission from the Mayor.

I. Motions Stated by Chair. Motions made and seconded shall be stated by the Mayor prior to debate.

J. Amendments. It shall be in order to amend motions or an amendment at any time.

K. Reconsideration. When an agenda item upon final passage fails to pass and a motion is made to reconsider the vote on such motion, such vote shall not be taken within twenty four (24) hours thereafter.

L. Anonymous Communications. Unsigned communications shall not be introduced to the Council.

M. Recessed Meetings. Any meeting of the Council may be recessed to a later time provided that no recess shall be for a longer period than until the next meeting.

N. Call to the Public. Petitions, communications and comments or suggestions from citizens present at Regular Town Council meetings may be heard by the Council subject to the limitations of the state open meeting law. The Council may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the Council may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the Council shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal actionby the Council at Call to the Public as

provided by the state open meeting laws.[20] All such remarks shall be addressed to the Council as a whole, and not to any member thereof. Such remarks shall be limited to three (3) minutes, unless additional time is granted by the Council. No person other than the individual speaking shall enter into the discussion without the permission of the Mayor. There shall be no discussion of a topic brought up by public comment unless it is properly noticed on the agenda.

O. Summary of Current Events. The Mayor, any Council member and the Town Manager may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:
   1. The summary is listed on the agenda.
   2. The Council does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action. [21]

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

Q. Open Meeting Laws. All Council meetings shall be run in accordance with the State open meeting law and discussion shall be limited to specific agenda items and matters reasonably related thereto. [22]

R. Telephonic Attendance. Council Members that are unable to physically attend regular meetings of the Mayor and Council of the Town, may appear telephonically by providing prior notice to the Mayor and Staff, except for executive sessions; however, such Council Member shall participate in the entire meeting, unless excused by the Mayor, and except as provided above.

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20 **Editors' Notes:** See, A.R.S. 38-431.01(H)

21 **Editors' Notes:** See, A.R.S. 38-431.02 (K)

22 Editors' Notes: See, A.R.S. 38-431.02 (H)

Article 2-5 ORDINANCES, RESOLUTIONS AND CONTRACTS

Section 2-5-1 Prior Approval
Section 2-5-2 Reading of Proposed Ordinance or Resolution
Section 2-5-3 Requirements for an Ordinance
Section 2-5-4 Effective Date of Ordinances
Section 2-5-5 Signatures Required
Section 2-5-6 Publishing Required
Section 2-5-7 Posting Required
Section 2-5-8 Franchise Ordinances
Section 2-5-9 State Law - Compliance

Section 2-5-1 Prior Approval

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

Section 2-5-2 Reading of Proposed Ordinance or Resolution

All ordinances and resolutions shall have at least one reading. This reading may be by title only if the Council is in possession of printed copies of said ordinance or resolution unless the Council by majority vote requires a reading in full. The Mayor and Council shall each be provided copies of any such resolution or ordinance at least twenty-four (24) hours prior to the meeting in which same is scheduled for adoption.

Section 2-5-3 Requirements for an Ordinance

Each ordinance shall have but one subject, which is clearly expressed in the title. Each ordinance which amends this Code shall be introduced as an amendment to this Code and, in such case, the title of the sections to be amended shall be included in the ordinance. Failure to follow this procedure, however, shall not serve to invalidate any ordinance adopted by the Council.

Section 2-5-4 Effective Date of Ordinances

A. No ordinance, resolution or franchise shall become operative until thirty (30) days after its passage by the Council, except measures necessary for the immediate preservation of the peace, health or safety of the Town, but such an emergency measure shall not become immediately operative unless it States in a separate section the reason why it is necessary that it should become immediately operative, and unless it is approved by the affirmative vote of three-fourths (3/4) of all the members elected to the Council.

B. In addition to the provisions of Subsection A of this Section, the Clerk shall certify the minutes of any Council meeting at which an ordinance, resolution or franchise is passed. The thirty (30) day

period specified in Subsection A of this Section shall be calculated from the date of passage by the Council.[23]

Section 2-5-5 Signatures Required

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

Section 2-5-6 Publishing Required

All ordinances, and only such orders, resolutions, motions, regulations or proceedings of the Council shall be published in the public media as may be required by State law or as expressly ordered by the Council. Ordinances shall be published as required by State law.[24]

Section 2-5-7 Posting Required

Every ordinance imposing any penalty, fine, forfeiture or other punishment shall, after passage, be posted by the Clerk in three (3) or more public places within the Town and an affidavit of the person who posted the ordinance shall be filed in the office of the Town Clerk as proof of posting.[25]

Section 2-5-8 Franchise Ordinances

Any person soliciting a franchise shall, upon introducing the same, furnish one copy thereof for each member of the Council and the Town Attorney, and shall bear and pay all expense connected with the consideration of such franchise, including printing and recording, and any and all other expenses necessarily incurred; provided, however, that in case any franchise is refused, no expense shall be chargeable to the applicant other than he may have voluntarily incurred in introducing the proposed franchise. No ordinance granting any franchise shall in any instance be placed upon its final passage, until after the expiration of thirty (30) days from the date of its introduction, nor until it has been considered and passed upon by the Town Attorney, who shall make his/her return within thirty (30) days.

Section 2-5-9 State Law – Compliance

Should the provisions of this Chapter differ from applicable State law on the procedures required of the Mayor and Council, then the more strict requirements shall be observed to insure compliance with State law.

23**Editors' Notes**: State law reference–Similar provisions, A.R.S. § 19-142(B).
24**Editors' Notes:**State law reference–Similar provisions, A.R.S. § 9-802; 9-812

25**Editors' Notes:**State law reference–Similar provisions, A.R.S. § 9-813

CHAPTER 3 - ADMINISTRATION

Article 3-1 TOWN OFFICERS IN GENERAL

Section 3-1-1 Town Officers
Section 3-1-2 Additional Officers
Section 3-1-3 Bond
Section 3-1-4 Vacancy To Be Filled By Council
Section 3-1-5 Additional Powers and Duties
Section 3-1-6 Attendance at Council Meetings

Section 3-1-1 Town Officers

The appointed Town officers shall be the Town Manager, Town Attorney, Town Clerk, Chief of Police, Fire Chief and the Town Magistrate. Said officers shall serve under the administrative direction of the Town Manager and shall have such powers and duties as may be established by state statute or this Code. Each such officer shall be appointed by, and serve at the pleasure of, the Town Council.26

Section 3-1-2 Additional Officers

The Council may appoint and remove such other officers, as it may deem necessary from time to time. The same person may hold two or more offices in the discretion of the Council.27

Section 3-1-3 Bond

The Council shall require each officer of the Town to give bond for the due discharge of his/her duties in such sums as may be required by State statute or as determined by resolution of the Council. The Town shall pay the costs of such bond or blanket bond.

Section 3-1-4 Vacancy To Be Filled By Council

Vacancies in the position of a Town Officer shall be filled by Council appointment.

Section 3-1-5 Additional Powers and Duties

In addition to any powers and duties prescribed in this Code, each officer shall have such further powers or perform such further duties as may be provided by ordinance of the Council.

Section 3-1-6 Attendance at Council Meetings

Any officer or employee of the Town, when requested, shall attend any meeting of the Council.

26Editors' Notes: State law reference – Similar provisions, A.R.S. § 9-271

27Editors' Notes: State law reference – Similar provisions, A.R.S. § 9-271

Article 3-2 TOWN OFFICERS; DUTIES

Section 3-2-1 Appointment of Town Manager
Section 3-2-2 Removal of Town Manager
Section 3-2-3 Duties of Town Manager
Section 3-2-4 Restrictions on Town Manager
Section 3-2-5 Acting Town Manager
Section 3-2-6 Compensation of Town Manager
Section 3-2-7 Council-Manager Relations
Section 3-2-8 Town Manager Attendance at Commission Meetings
Section 3-2-9 Town Clerk
Section 3-2-10 Town Attorney
Section 3-2-11 Chief of Police
Section 3-2-12 Fire Chief
Section 3-2-13 Town Magistrate

Section 3-2-1 Appointment of Town Manager

A. The Town Manager shall be appointed by a majority vote of the Council for an indefinite term. The Manager shall be chosen by the Council on the basis of his/her executive and administrative qualifications and his/her knowledge of accepted practice in respect to the duties of his/her office as hereinafter set forth. No Council member shall receive such appointment during the term for which he/she shall have been elected or during any other term such appointment may be restricted by State law.28

B. Residence in the Town at the time of appointment shall not be required as a condition of the appointment; provided, that within sixty (60) days after taking office he/she shall become a resident of the Town unless the Council approves his/her residence outside the Town.

Section 3-2-2 Removal of Town Manager

The Manager shall serve at the pleasure of, and may be removed by, the Council by a majority vote of its members at any time.29

Section 3-2-3 Duties of Town Manager

The Manager shall be the chief administrative officer and head of the administrative services of the Town. Administrative services shall include all Town employees except for elected officials. He/she shall be responsible to the Council for a proper administration of the affairs of the Town. He/she, or designee, shall have the power and shall be required to:

28**Editors' Notes**: State law reference: A.R.S. § 9-303

29**Editors Notes:**State law reference: A.R.S. § 9-303

A. Execute, on behalf of the Council, general administrative supervision and control of the affairs of the Town.

B. Attend meetings of the Council, except when excused by the Council, with the duty of reporting on or discussing any matter concerning the affairs of the departments, boards, services or activities under his/her supervision, upon which, in his/her judgment, the Council should be informed.

C. Appoint, and when necessary, suspend or remove all employees of the Town except Town Official appointees of the Council. All appointments and removals shall be based upon the qualifications or disqualifications of such employee without regard to any political belief or affiliation.

D. Coordinate the administrative functions and operations of the various departments, boards, divisions and services of the Town government, and on its behalf to carry out policies, rules, regulations and ordinances adopted by it, relating to the administration of the affairs of such departments, boards, divisions or services.

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

F. Supervise the expenditures of all departments, divisions or services of the Town government and to act as purchasing agent for the purchase of all supplies, goods, wares, merchandise, equipment and material which may be required for any of such departments, divisions or services.

G. Analyze and supervise the functions, duties and activities of the various departments, boards and services of the Town government and of employees thereof, and to make such recommendations to the Council with reference thereto, as in his/her judgment would result in the most efficiency in the overall operation of Town government.

H. Develop and organize necessary improvement projects and programs and to aid and assist the Council and the various departments and boards in carrying the same through to a successful conclusion.

I. Serve as Public Relations officer of the Town government, and to follow through and endeavor to adjust all complaints filed against any employee, department or service thereof to the end that every effort may be made to satisfy all citizens that their Town government is being operated on their behalf with the highest degree of efficiency.

J. Cooperate with community organizations and provide them with any reasonable assistance obtainable through the Town government within the limitations of law.

K. Make and keep an up-to-date inventory of all personal property owned by the Town and recommend to the Council the purchase of new machinery, equipment and supplies whenever, in his/her judgment, the same can be obtained at the best advantage, taking into consideration the trade-in value of machinery and equipment in use.

L. Make, or cause to be made, studies and surveys of the duties, responsibilities and work of the personnel in the various departments and services of the Town government, and to recommend to the Council abolition or consolidation of positions or transfers or removals of personnel, whenever in his/her judgment, such action would increase efficiency in the administration and operation of the Town government.

M. See that all laws and ordinances of the Town are duly enforced and to see that all franchises, contracts, permits and privileges granted by the Council are faithfully observed.

N. Devote his/her entire time to the discharge of his/her official duties.

O. Perform such other duties as may be required of him/her by the Council, not inconsistent with the laws of the State of Arizona, this Code or the ordinances of the Town.[30]

Section 3-2-4 <u>Restrictions on Town Manager</u>

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

Section 3-2-5 <u>Acting Town Manager</u>

In the event of the absence or disability of the Manager, the Council may appoint an Acting Town Manager who shall exercise the powers of said office unless said powers have been otherwise delegated by Council action.

Section 3-2-6 <u>Compensation of Town Manager</u>

A. The Town Manager shall receive such compensation as the Council shall from time to time determine.

B. The Town Manager shall be reimbursed for all actual and necessary expenses incurred by him/her in the performance of his/her official duties.

C. Nothing in this Article shall be construed as a limitation on the power or the authority of the Council to enter into any agreement with the Town Manager delineating other or different terms not prohibited by state statute.

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[30]**<u>Editors' Notes</u>**: State law reference: A.R.S. § 9-303

Section 3-2-7 Council-Manager Relations

The Council and its members shall deal with the administrative services of the Town only through the Town Manager, except for the purpose of inquiry, and neither the Council nor any member thereof shall give orders or instructions to any subordinates of the Town Manager. The Town Manager shall take his/her orders and instructions from the Council only when sitting in a duly convened meeting of the Council and no individual Council member shall give any orders or instructions to the Town Manager.

Section 3-2-8 Town Manager Attendance at Commission Meetings

The Town Manager may attend any and all meetings of the Planning and Zoning Commission, and any or all other commissions, boards or committees created by the Council, upon his/her own volition, or upon direction of the Council. At such meetings which he/she attends, he/she shall be heard by such commission, boards or committees as to all matters upon which he/she wishes to address the members thereof, and he/she shall inform said members as to the status of any matter being considered by the Council except where prohibited by law, and he/she shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the Council.

Section 3-2-9 Town Clerk

A. Records. The Clerk shall be the custodian of the public records of the Town and 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, minutes, contracts, 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/her control, as provided by State statute. The Town Clerk shall consult with the Town Attorney on public records issues and requests.

C. Agenda and Minutes. The Clerk shall prepare or cause to be prepared the agenda, as directed by the Town Manager, and prepare and keep the minutes of Council proceedings and ensure their correctness and accuracy and compliance with all statutory obligations, including but not limited to, the State open meeting laws.[31]

D. Ordinances, Resolutions, Bids, Budgets and Notices. The Clerk shall process, record, file, publish as may be required by State statute, and post all ordinances, resolutions, budgets, bids and notices that may be approved by the Council.

E. Duties as Treasurer. The Clerk shall hold the office of Town treasurer and receive and safely keep all monies that shall come to the Town and pay out the same when authorized by the Council. The Town Clerk 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

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31**Editors' Notes**: State law reference – Similar provisions, A.R.S. § 9-271; 38-431.02

what purpose expended, and he/she shall make annual reports to the Council of all receipts and disbursements and the balance in each fund. At the end of the fiscal year he/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 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**.**

F. Election official. The Clerk shall be the Town election registrar and perform those duties required by State statute and this Code.

G. Meetings of Council. The Clerk shall attend all meetings of the Council, unless excused.

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

I. Purchasing Agent. The clerk shall assist the Town Manager in his capacity as purchasing agent of the Town and make purchases as authorized and directed by the Town Council or Town Manager as provided in this code or state law.

J. Other Duties. The Clerk shall perform such other duties as may be required by State law, this Code or by order of the Council or Town Manager.

Section 3-2-10 Town Attorney

The Town Attorney shall be appointed by the Council. The duties of the Town Attorney include, but are not limited to:

A. Attend all meetings of the Council unless excused.

B. Act as legal counselor and advisor of the Council, commissions and all Town officials and as such shall give his opinion in writing when requested by the Council.

C. Draft all deeds, contracts, conveyances, ordinances, resolutions, franchises and all other legal documents for consideration by the Council.

D. Approve as to form in writing all drafts of legal documents prior to consideration by the Council.

E. Prosecute, defend and/or oversee 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. The Town Attorney shall supervise all outside legal counsel to the Town.

F. Serve as prosecutor, or supervisor of prosecution, for all Code violations filed in Magistrate Court.

Section 3-2-11Police Chief

The Chief of Police shall be the head of the Police Department hired by the Town Council under the direction and supervision of the Town Manager. All other members of the Department shall be under his immediate supervision, direction and control and it shall be his duty to see that all laws are kept, obeyed and executed. He shall have such other powers and perform such other duties as are now or may hereafter be prescribed.

Section 3-2-12 Fire Chief

The Fire Chief shall be the head of the Fire Department appointed by the Town Council under the direction and supervision of the Town Manager. All other members of the Department shall be under his/her immediate supervision, direction and control and it shall be his/her duty to see that all laws are kept, obeyed and executed. He/She shall have such other powers and perform such other duties as are now or may hereafter be prescribed.

Section 3-2-13Town Magistrate

The Town Magistrate shall be appointed by the Council and shall perform such duties as may be provided by law. The Town Magistrate shall be appointed for a term of not less than two years. He/she shall be the administrative head of the Magistrate Court.

Article 3-3 PERSONNEL SYSTEM

Section 3-3-1 Creation and Scope
Section 3-3-2 Conditions of Employment
Section 3-3-3 Political Activity
Section 3-3-4 Personnel Officer
Section 3-3-5 Background Checks of Applicants for Employment
Section 3-3-6 Reimbursement of Employee Expenses Incurred on Town Business

Section 3-3-1 Creation and Scope

The Council shall adopt by Resolution a policy for the personnel of the Town, the provisions of which shall apply to all employees of the Town except elected officials, Town officials appointed by the Council, persons engaged under contract to supply professional or technical services, temporary employees and volunteer personnel who receive no regular compensation from the Town and such other employees as the Council may exempt.

Section 3-3-2 Conditions of Employment

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

Section 3-3-3 Political Activity

A. 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.

B. All employees shall remain free from any political activity in a Superior municipal election:
   1. No employee may solicit or attempt to solicit support for a candidate involved in a Superior municipal election from any employee or appointed official.

C. No employee may take any part in the campaign of a candidate participating in a Superior municipal election.

D. Employees may exercise their rights as citizens to vote, privately express personal opinions, and sign nominating petitions, initiative, referendum or recall petitions.

E. No paid employee shall seek election to public office with the Town while still employed by the Town.

F. No paid employee shall use his position or Town resources to sell, solicit or distribute any campaign material or information for any election during working hours and/or in uniform used by or identified with the Town government.

G. No paid employee shall use his position to introduce, guide or recommend any candidate for any public office on Town property.

H. "Employee" as used in this section means all Town employees, classified and unclassified, Town officer, contract, part-time, seasonal and temporary Town employees.

Section 3-3-4 Personnel Director

The Town Manager, or designee, shall serve as the Personnel Director to administer the personnel system in compliance with the policy adopted by the Council. Said Director shall perform such duties as may be required by this Code and any duly adopted personnel policy.

Section 3-3-5 Background Checks of Applicants for Employment

All applicants for employment with the Town shall submit a full set of fingerprints to the Town Police Department for the purpose of obtaining a state and federal criminal records check pursuant to A.R.S. § 41-1750 (G) (2). The Police Department and the Arizona Department of Public Safety are authorized to exchange this fingerprint data with the Federal Bureau of Investigation and to receive and disburse to the Personnel Department any report received as a result of said records check.[32]

Section 3-3-6 Reimbursement of Employee Expenses Incurred on Town Business

The standard for the reimbursement of mileage expenses incurred by employees in the representation of the Town shall be those approved by rule or regulation of the Internal Revenue Service from time to time. Rates of reimbursement for meals and hotels shall be those as established by the Council from time to time except where hotel arrangements are made by the Town.

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[32] Editors' Notes: State law reference - A.R.S. § 41-1750

ARTICLE 3-4 CLAIMS AGAINST THE TOWN

Section 3-4-1 Procedure and Time Limit for Presenting Damage Claims.
Section 3-4-2 Presentation of a Claim a Prerequisite for Court Action.
Section 3-4-3 Real Property Diminution in Fair Market Value Claim Required
Section 3-4-4 Appeals From Required Dedications or Exactions

Section 3-4-1 Procedure and Time Limit for Presenting Claims.

A. All claims against the Town shall be filed with and served upon the Town Clerk in accordance with State law.

B. The Town Clerk shall transmit all claims filed with that office to the Town Attorney, with a copy to the Town Manager, and any other person designated to investigate claims. These claims shall then be processed pursuant to guidelines approved by the Town Attorney.[33]

Section 3-4-2 Presentation of a Claim a Prerequisite for Court Action.

No court action shall be brought against the Town or any board, commission, officer or employee thereof until a claim or demand for payment of the same has been presented as provided in this Article and such claim has been rejected. Failure by the Town to complete action approving or rejecting any claim or demand within sixty (60) days from the date the same is presented shall be deemed a rejection thereof.[34]

Section 3-4-3 Real Property Diminution in Fair Market Value Claim Required.[35]

A property owner shall file a written demand for just compensation with the Town Clerk where it is alleged that a new land use law has been enacted by the Town which directly regulates and diminishes the fair market value of their property. The provisions, definitions and published judicial interpretations of A.R.S. § 12-1134 are incorporated herein by this reference.

A. Only the fee title owner(s) may file a claim. The owner shall have the burden of proof on the issue of diminution in value of the property. Claims shall be filed in accordance with the requirements of A.R.S. § 12-1134 and this section.

B. Documentation required from owners:

1. Legal description and street address of the property;

2. Identification of all of the legal owners of the property. A description of the legal interest held and evidence of ownership showing the date the ownership interest was acquired. If there are multiple owners a description of the interest held by each owner and claimant. If property is held in trust, owned by a corporation, partnership, LLC or LLP, a Statement

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33 Editors' Notes: Statutory reference A.R.S. § 12-821.01

34 Editors' Notes: A.R.S. § 12-821.01

35 Editors' Notes: A.R.S. § 12-1134

whether the claim is filed on behalf of the trust, corporation, partnership, LLC, LLP individual(s), partners (or both).

3. Identification of the Town land use law which the property owner alleges diminishes the value of his land including a description of the desired use of the property, how the regulation restricts the desired use of the property and how the land use law reduces the fair market value of the property

4. All documentation in support of the claim of diminished value. The actual amount of diminution in value shall be stated and the complete support thereof shall be required. Attach an appraisal and all other documentary evidence which supports the claim together with written permission from the claimant and all owners to enter the property to appraise it and verify information in the claim.

5. The claim shall set forth a specific amount of just compensation the claimant demands.

6. Claims shall contain a sworn, notarized Statement signed by the claimant attesting that the information contained in the claim is accurate and correct.

Section 3-4-4 <u>Appeals From Required Dedications or Exactions</u>

A property owner may appeal administrative dedications and exactions imposed as a condition of approval for the use, improvement or development of his/her real property pursuant to the procedures set forth in A.R.S. 9-500.12 or a taking of real property as that term is used in A.R.S. 9-500.13 This section shall not apply to a legislative act of the governing body of the Town that does not give discretion to the administrative agency or official to determine the nature or extent of the dedication or exaction. An appeal may be filed with the Town Clerk not later than thirty (30) days after the final action. No fee shall be charged. A hearing officer will then be appointed, proceedings conducted in accordance with A.R.S. 9-500.12 and any appeal shall be heard by Pinal Superior Court.36

36<u>Editors' Notes:</u> A.R.S. 9-500.12

Article 3-5 PURCHASING

Section 3-5-1 Scope of Article
Section 3-5-2 Definitions
Section 3-5-3 Conflict of Interest
Section 3-5-4 Council Approval; When Required
Section 3-5-5 Purchasing Director; Duties
Section 3-5-6 Emergency Purchases; Procedure
Section 3-5-7 Purchases in General; Bids
Section 3-5-8 Bidding Procedure
Section 3-5-9 Lowest Responsible Bidder
Section 3-5-10 Bid Bond
Section 3-5-11 Exclusive Service
Section 3-5-12 Professional and Technical Services
Section 3-5-13 Forms
Section 3-5-14 Purchase Orders
Section 3-5-15 Arizona Procurement Code
Section 3-5-16 Public Buildings and Improvements
Section 3-5-17 Procedure on Request For Payment

Section 3-5-1 Scope of Article

This Article shall govern the procedure for purchase of any goods or services for, or on behalf of, the Town. This Article is intended to supplement State law, however should applicable State law provide more stringent provisions regarding any proposed transaction those more stringent provisions shall apply.

Section 3-5-2 Definitions

In this Article, unless otherwise specifically provided:

A. "Local Business" shall be defined as businesses physically located within the jurisdictional boundaries of the Town of Superior.

Section 3-5-3 Conflict of Interest

A. It shall be the policy of the Town of Superior that all officers, employees, agents, contractors and other representatives of the Town make every effort to assure the public that measures are in place to identify and prevent conflicts of interest in the implementation, acquisition and award of contracts or in the sale or purchase of property or services to, or for, the Town. The conflict of interest provisions of State and federal law, as applicable, shall be adhered to in all instances.[37]

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[37] **Editors' Notes**: State law reference: A.R.S. § 38-501 et. seq.

B. It shall be the policy of the Town to avoid even the appearance of impropriety by its officers, employees, agents, contractors or other representatives in any transaction regarding the Town, including the awarding of contracts or the purchase or sale of any real or personal property or services.

C. The Town Manager and Town Attorney shall be responsible for insuring that the applicable provisions of the conflicts of interest laws are made known to all public officers, employees, agents, contractors, representatives and all persons or companies who may have an interest or submit a proposal or bid on any contract, sale, purchase or service with the Town of Superior.

D. In addition to the provisions of State law, it is declared to be the policy of the Town that no officer, employee or agent of the Town shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to contracts which may or are to be awarded by the Town.

Section 3-5-4 <u>Council Approval; When Required</u>

No purchases shall be made by or on behalf of the Town without first obtaining Council approval in the following instances:

A. Where prior approval is required by State statute or this Code;

B. Where the purchase of the item is not provided for in the budget as adopted;

C. Where funds for the purchase are not provided in the budget as adopted;

D. For the expenditure of funds in an amount in excess of Twenty Five Thousand ($25,000) dollars.

E. All change orders to contracts approved by Council.

Section 3-5-5 <u>Purchasing Director; Duties</u>

A. The Town Manager shall appoint the Purchasing Director who shall direct and control all purchases of goods and services made by, or on behalf of, the Town.

B. The Purchasing Director shall approve or deny all purchase requests and shall report to the Council on any purchase requiring Council approval.

Section 3-5-6 <u>Emergency Purchases; Procedure</u>

In case of an emergency which requires immediate purchase of supplies or services and when time is of the essence and applicable State law does not provide otherwise, the Mayor in the case of a declared emergency, or the Manager shall be empowered to authorize the Purchasing Director to acquire goods or services without complying with the requirements and procedures in this Article. A full report of the circumstances of such emergency and the goods or services obtained shall be made to the Council at its next regular meeting.

Section 3-5-7 Purchases in General; Bids

A. Purchases Under $250: Whenever the contemplated purchase or contract for services is for the sum of less than Two Hundred and Fifty ($250.00) dollars, the Purchasing Director may obtain the goods or services without further formality.

B. $250 to $2,500 Inclusive: Whenever any contemplated purchase or contract for services is for the sum of at least Two Hundred and Fifty ($250.00) dollars but not more than Twenty Five Hundred ($2,500.00) dollars, after completion of a Purchase Order, the Purchasing Director shall obtain at least three quotes or bids if available. At his/her discretion, he/she may solicit such quotes or bids by phone or in writing. Documentation of the bids solicited are to be maintained on a requisition form which is to be attached to a completed purchase order form. Upon review of the quotes or bids,the Purchasing Director shall award the purchase or contract to the lowest responsible bidder.

C. $2,501 to $25,000: Whenever any contemplated purchase or contract is for a sum in excess of Twenty Five Hundred and One ($2501.00) dollars but not more than Twenty Five Thousand ($25,000.00) dollars, after completion of a Purchase Order, the Purchasing Director shall obtain written price bids or quotes from suppliers. The purchasing inquiry form is to be used to document the written price bids or quotes and is to be attached to a completed requisition form. Upon review of the written bids or quotes, the Purchasing Director shall award the purchase or contract to the lowest responsible bidder.

D. In Excess of $25,000: Whenever any contemplated purchase or contract is for a sum in excess of Twenty Five Thousand ($25,000.00) dollars, the Purchasing Director shall advertise for bids according to the procedures established in this Article. The purchase or contract shall be awarded to the lowest responsible bidder, but the Town shall reserve the right to reject any and all bids, waive any informality, and/ or re-advertise.

   1. In addition to the foregoing requirements, if the bids received for the purchase or contract are in excess of Twenty Five Thousand ($25,000.00) dollars, no purchase or contract may be made without prior Council approval. The Purchasing Director shall present all the bids obtained to the Council and shall report to them on the need for the goods or service and the advantages or disadvantages of the contract and bid proposals. The Council reserves the right to reject any and all bids and re-advertise.

E. Exemptions-Local Businesses: The foregoing provisions notwithstanding, if in the judgment of the Purchasing Director there are a limited number of local businesses who have provided satisfactory goods or services to the Town of the nature desired, and the costs exceed the Twenty Five Thousand ($25,000.00) dollar amount requiring advertising, the Purchasing Director may prepare and submit to the local businesses, and to others he/she may deem appropriate, written requests for bids or proposals for the goods or services desired, without further advertising, unless required by State or federal law. All proposals for providing the desired services must be opened at the same time in public, and shall be submitted to the Council, in writing, for final acceptance of the successful proposal. A written request for proposals shall reserve the right to reject any, and all proposals.

F. Local Business Preference: On all purchases, local businesses shall be entitled to a five percent (5%) preference to the extent allowable by law.

G. Procurement requirements shall not be artificially divided in order to circumvent the requirements of this Article.

Section 3-5-8 Bidding Procedure

Except as otherwise provided in Section 3-5-11 or state law, the Purchasing Director shall follow the procedure set forth in this Section for all purchases and contracts subject to the written bidding process:

A. A notice of solicitation for bids shall State the date, time and place of opening, and the place and time period within which bids shall be submitted.

B. The notice shall State with particularity the goods or services required and shall State the place where specifications may be examined.

C. Bids shall be submitted in a sealed envelope clearly identified as a bid on the front of the envelope. Any bid not received within the time period allowed shall be rejected.

D. All bids shall be opened in public at the time and place specified, and a tabulation of all bids shall be available from the Town Clerk.

E. All bidders shall be notified in writing of the award or rejection of any and all bids.

Section 3-5-9 Lowest Responsible Bidder

A. Unless the Council or the Purchasing Director, as appropriate, shall exercise the right of rejection of any or all bids, all goods and services in an amount in excess of Twenty Five Thousand ($25,000.00) dollars shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, the Council or the Purchasing Director shall consider:

    1. The ability, capability and skill of the bidder to perform the contract or provide the services required in a timely manner;

    2. The quality of performance in previous contracts with the Town, together with previous and existing compliance with the ordinances of the Town; The Purchasing Director or Council, as the case may be, reserves the right to request references from other public projects or contracts.

    3. The financial resources and ability of the bidder;

    4. The quality, availability and adaptability of the goods or service.

B. The Purchasing Director shall select providers of goods and services without regard to race, color, national origin, ethnicity, religion or creed, sex, handicap, age, marital or familial status as required by the Town policy of equal opportunity and non-discrimination. Preferences as

required by state or federal law shall be observed notwithstanding any contrary language contained herein.

Section 3-5-10 Bid Bond

The Purchasing Director shall have the authority to require a bid bond, in such amount as he/she may deem sufficient, to secure the execution of a contract for construction, provided however, that in a contract for construction in excess of Twenty Five Thousand ($25,000.00) dollars, such a bond shall be required. In all cases of construction to which state law applies, any requirement for performance and payment bonds shall be incorporated into the contract.

Section 3-5-11 Exclusive Service

In the event that there is only one person or entity capable of providing a particular commodity or service, the requirements of this Article concerning bidding procedures shall generally conform to the sole source procedures as provided in the Arizona Procurement Code.

Section 3-5-12 Professional and Technical Services

A. The provisions of A.R.S. Title 34 shall govern the selection of architects, engineers and other technical registrants. The Purchasing Director may utilize a professional or technical service provider with which the Town has an ongoing relationship without compliance with the provisions of this Article, unless a regular bidding process is required by a grant provider for the project for which the services are required.[38]

B. No person or firm practicing in a professional or technical field for which a license is required by State law shall be engaged by the Town unless possessing a current license in good standing.

C. Upon engagement, the Town shall enter into a written agreement or memorandum of understanding for the performance of the services for which engaged, setting forth the scope of services and the unit or total price therefore.

Section 3-5-13 Forms

The Purchasing Director shall be responsible for the preparation and distribution of forms and documentation to carry out the provisions of this Article.

A. Bid Specification Form: The bid specification form shall State the specifications for the goods or services required as well as the criteria for award of the bid and shall be available for inspection by prospective bidders as of the first publication of the notice of bid.

B. Requisition Form: The Requisition Form shall be completed prior to any purchase by those authorized to purchase supplies, materials or services, and shall be reviewed and approved in writing by the Department Head. The Requisition Form shall be submitted to the purchasing department to review for completeness. The Requisition Form shall be used to document

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38 **Editors' Notes**: State law reference A.R.S. § 34-101 et. seq.

phone, verbal or written bids solicited from suppliers. The Requisition Form shall be attached to the Purchase Order Form as documentation of the solicitation.

C. Notice to Bidders: The Notice to Bidders shall set forth the goods or services sought, the day, time and place when bids will be opened, the dates and times within which bids will be received, when specifications may be reviewed and where available and such other information as may be required to secure the most advantageous bids.

D. Purchase Order Form: The Purchase Order form shall be completed by the purchasing department upon review of a duly authorized Requisition Form. The Requisition Form will then be reviewed and approved by the Purchasing Director. The purchasing department will submit a copy of the Purchase Order Form and Requisition Form with supporting documentation to the Town Clerk.

Section 3-5-14 Purchase Orders

A. In General: The Purchasing Director shall provide forms for purchase orders which shall be used for the purchase of all goods and services for, or on behalf of, the Town.

B. Open Purchase Orders: Open purchase orders may be provided by the Purchasing Director for the routine purchase of regularly supplied items costing not more than Two Hundred Fifty ($250.00) dollars per invoice in the aggregate. An open purchase order shall be limited to a single source. All open purchase orders shall expire at the end of the fiscal year of issuance and the expiration date shall be plainly stated on its face.

Section 3-5-15 Arizona Procurement Code

In addition to, or in the alternative, to the procedures set forth in this Article, the Town Manager, or designee, may, but shall not be required to, utilize any and all procedures authorized for use in the Arizona Procurement Code, including but not limited to, sole source, internet and intergovernmental procurement as provided therein. The provisions of the Arizona Procurement Code and implementing regulations shall be deemed to be adopted herein for the purposes as Stated herein and to that extent.39

Section 3-5-16 Public Buildings and Improvements

Where applicable, and as required, the provisions of A.R.S. Title 34, Public Buildings and Improvements, shall be deemed to be incorporated herein by this reference and to that extent. Where applicable, the provisions of A.R.S. Title 34 shall control over the provisions of this Code.40

39Editors' Notes: Statutory reference: A.R.S. § 41-2501 et. seq.

40**Editors Notes:**Statutory reference: A.R.S. § 34-101 et. seq.

Section 3-5-17 <u>Procedure on Requests For Payment</u>

A. All requests for payment for purchases shall be in writing and may be in the form of a bill, invoice, payroll or formal demand with proper reference to an authorized purchase order, where applicable. Notwithstanding the above, all contract payment requests from the Town shall be in writing, in a form acceptable to the Town Manager, or designee, and in as many copies as the Town Manager may require. Every claim shall set forth all the details pertaining to the purchase, including, but not limited to:

    1. A complete description of the goods or services furnished, or the circumstances giving rise to the claim.

    2. The quantities of goods furnished.

    3. The unit price of goods furnished.

    4. The total cost to the Town, including applicable taxes, service charges, delivery charges, and all other charges.

    5. A reference to any purchase orders, written or oral, which may have been issued by the Town with reference to the purchase.

B. All requests for payment shall be audited by the Manager or his/her representative prior to payment. Such audit shall satisfy the Manager that the following elements are accounted for:

    1. The goods or services covered by the claim were ordered by authority of a properly designated Town official.

    2. The goods or services were actually received.

    3. The price charged the Town is the price that was agreed to at the time the order was placed.

    4. The claim is mathematically correct.

C. After audit by the Manager, all claims shall be approved by the Council prior to payment.

D. In the event that a contractual dispute continues or arises after exhausting these procedures, a claim against the Town shall be made pursuant to Section 3-4-1.

Article 3-6 CONTRACTS

Section 3-6-1 Scope of Article
Section 3-6-2 Contract Administrator
Section 3-6-3 Change Orders and Amendments
Section 3-6-4 Request for Proposal; Amendments
Section 3-6-5 Acceptance of Work Completed
Section 3-6-6 Attestation of Contracts by Town Clerk
Section 3-6-7 Compliance with Conflict of Interest and Other Rules

Section 3-6-1 Scope of Article

This Article shall govern the formalities regarding all contracts entered into by or on behalf of the Town.

Section 3-6-2 Contract Administrator

The Town Manager, or designee, shall serve as the Contract Administrator for the Town and as such supervise the completion of all contracts entered into by or on behalf of the Town. During times the Manager position is vacant, the Town Clerk shall serve as Contract Administrator, unless the Council has appointed an Acting Manager.

Section 3-6-3 Change Orders and Amendments

A. No change order shall be approved nor shall any amendment or alteration of any executory contract that was approved by the Council become effective without the express approval of the Council. No change order shall be approved nor shall any amendment or alteration of any executory contract that was not approved by the Council become effective without the express approval of the Contract Administrator. Such approval shall be in the form of a rider or written amendment executed by the parties and attached to the original contract.

B. Any change order, amendment or alteration of any executory contract shall be furnished to the Council for its review and, where required, its prior approval.

Section 3-6-4 Request for Proposal: Amendments

The Town Manager shall present Requests for Proposals to the Council for approval in any proposed contract in excess of $25,000. Upon approval by the Council, no change, alteration or amendment shall be allowed without prior approval of the Council.

Section 3-6-5 Acceptance of Work Completed

A. Notice of Acceptance: When a contracting party providing goods or services to the Town makes a request for acceptance by the Town of work as completed, the Contract Administrator shall indicate acceptance on behalf of the Town on a form designated for that purpose and shall notify the Council of such acceptance. Until the notice of acceptance is issued, no public work completed on behalf of the Town shall be considered as the property of the Town, and the Town shall assume no responsibility therefore. Any applicable warranty period shall not begin to run until acceptance by the Town.

B. Release of Retainer; Conditions: The Town shall not release any funds due which are held as retainer until the Contract Administrator is satisfied that the work has been completed to the satisfaction of the Town in accordance with the specifications of the contract and State law.

Section 3-6-6 Attestation of by Town Clerk And Approved as to Form by the Town Attorney

All contracts entered into by the Town shall be attested by the Town Clerk and approved as to form by the Town Attorney and shall not be binding on the Town until so attested and approved. The Town Clerk shall retain the original of all contracts and agreements and shall provide to the Contract Administrator such documents as are necessary for orderly administration of the Town's business.

Section 3-6-7 Compliance with Conflict of Interest and Other Rules

The Contract Administrator shall comply with all laws, rules and policies on Conflict of Interest or other special provisions regarding contracts which may be adopted by Council. All statutorily required language to be in any contract or agreement with the Town shall be included, or deemed to be included, in any contract with the Town by this reference.

Article 3-7 DISPOSITION OF TOWN PROPERTY

Section 3-7-1 Scope of Article
Section 3-7-2 Definitions
Section 3-7-3 Disposition of Town Property
Section 3-7-4 Property Administrator
Section 3-7-5 Disposition of Personal Property
Section 3-7-6 Disposition of Real Property

Section 3-7-1 Scope of Article

This Article shall govern the disposition of real and personal property owned by the Town. It is the intent of this article to supplement state law, however should applicable state law provide more strict provisions regarding any proposed transaction then those more stringent provisions shall apply.

Section 3-7-2 Definitions

In this Article, unless this Code or State statute specifically provide otherwise:

A. Contract: Means an agreement, oral or written, respecting the transfer of property, real or personal, to or from the Town.

B. Disposition: Means the sale, lease or other means of divestiture of title or the right to possession of any property belonging to the Town.

C. Personal property: Means property which is tangible and movable without damage, but may include fixtures attached to real property.

D. Property Administrator: Means the Town Manager, or designee, assigned as custodian of all property belonging to the Town.

E. Real property: Means property consisting of land or structures affixed to land.

Section 3-7-3 Disposition of Town Property

No property belonging to the Town shall be disposed of except in accordance with this Code, state statute, and such rules as the Council may adopt pursuant to this Code.

Section 3-7-4 Property-Administrator

The Town Manager, or designee, shall serve as the Property Administrator for the Town and shall have custody of all property, real or personal, belonging to the Town. The Property Administrator shall maintain a complete inventory of the property of the Town and shall report the same to the Council annually. The report shall include a current inventory together with a list of additions and deletions or other dispositions for the preceding fiscal year.

Section 3-7-5 Disposition of Personal Property

Personal property shall be disposed of in the following manner:

A. Personal property belonging to the Town and having a current value of less than One Thousand ($1,000.00) dollars or an original cost of less than One Thousand ($1,000.00) dollars may be declared surplus by the Property Administrator and may be sold or traded without notice or advertisement for bids.

B. Personal property belonging to the Town and having a current value greater than One Thousand ($1,000.00) dollars or an original cost of One Thousand ($1,000.00) dollars or more may be declared surplus by the Property Administrator, with approval of the Town Council, and shall be sold at public auction, notice of which shall be published in a newspaper of general circulation in the Town for two consecutive weeks preceding the scheduled sale. Internet auctions shall be allowed as determined by the Town Manager.

C. Any property in the possession of the Town which is contraband as defined by state law, or all other property the disposition of which may be controlled by State law, shall be disposed of in accordance with the applicable State statutes.

D. Notwithstanding any of the above, any personal property, other than contraband, lawfully in the possession of the Town, may be offered for sale at public auction, either individually or grouped in lots as may be deemed appropriate by the Property Administrator. Such sale shall comply with all applicable notice provisions.

Section 3-7-6 <u>Disposition of Real Property</u>

A. <u>Execution of Documents by Mayor</u>: No sale or other disposition of real property belonging to the Town shall be final until approved by a majority vote of the Council and all documents pertaining thereto shall be executed by the Mayor and attested by the Town Clerk.

B. <u>Advertisement; Bids</u>: Unless the sale or exchange is to another governmental agency, no real property belonging to the Town shall be sold or otherwise disposed of except at public auction or sealed bids, except for abandonment of Town property as provided below. The date, time and place of public auction or acceptance of bids shall be posted not less than two (2) weeks in advance of the date at Town Hall, on the site of the real property to be disposed of and at least two (2) other public places. In addition, the notice of sale shall be published in a paper having general circulation in the Town once each week for two (2) consecutive weeks preceding the sale, with the last such publication not less than three (3) days before the sale. The notice shall include a legal description of the property, a common address and a location map.[41]

C. <u>Appraisal Prior to Sale</u>: Prior to the sale of any real property with an estimated value of more than One Thousand ($1,000.00) dollars, the Town may obtain one or more appraisals of value from one or more disinterested parties. Such appraisal shall form the basis for valuation of the property to be sold if ordered by vote of the Mayor and Council.

41**<u>Editors' Notes</u>**: Statutory reference: A.R.S. 9-401 et.seq.

D. Real Property with Value Above $500,000: Real property having a value in excess of Five Hundred Thousand ($500,000.00) dollars may be disposed of in compliance with this Article, but only after an election is held if same is required by state law.

E. Abandonment of rights of way shall be in accordance with A.R.S. Title 28, as same may be amended from time to time.[42]

[42] **Editors' Notes:** A.R.S. 28-7201 et. seq., as amended from time to time.

Article 3-8 SAFETY AND LOSS PREVENTION PROGRAM

Section 3-8-1 Program Established
Section 3-8-2 Safety Program Coordinator
Section 3-8-3 Safety and Loss Prevention Committee

Section 3-8-1 Program Established

The Town Manager shall establish a Safety and Loss Prevention Program to require compliance with all federal, State law and local rules and regulations by Town employees, supervisors and contractors.

Section 3-8-2 Safety Program Coordinator

The Town Manager shall appoint a Safety Program Coordinator from among existing Town employees. Said coordinator shall be the chairman of the Safety and Loss Prevention Committee which shall be formed by appointing one (1) employee from each department of the Town.

Section 3-8-3 Safety and Loss Prevention Committee

A. The Safety and Loss Prevention Committee shall:

B. Establish rules and procedures for conduct of its meetings and shall meet at least once each quarter.

C. Formulate rules and regulations to recommend to the Manager for adoption which:

1. Provide for a cooperative effort to reduce the frequency and cost of occupational injuries, illnesses, and loss or damage of equipment, as well as to minimize exposure to public liability.

2. Contain enforcement and updating provisions to insure compliance with all federal, State and local rules or regulations regarding safety in the work environment.

3. Are calculated to create a positive attitude toward the prevention of accidents and the recognition and correction of all unsafe working conditions, operating procedures and practices.

4. Provide for development and maintenance of procedures for proper treatment and care of any employee who may be injured or become ill during the performance of their duties.

5. Provide for education of all employees of all applicable rules and regulations and safety inspections to identify and avoid violations.

D. Both the Town Manager and the Safety Coordinator shall have the responsibility to report the necessity for any amendment to said rules and regulations.

E. The Town Clerk shall maintain an index of all rules and regulations which have been adopted.

CHAPTER 4 - POLICE DEPARTMENT

Article 4-1 POLICE DEPARTMENT

Section 4-1-1 Created; Composition
Section 4-1-2 Duties of Police Department
Section 4-1-3 Departmental Policies
Section 4-1-4 Answering Calls Outside the Town
Section 4-1-5 Police Reserve
Section 4-1-6 Wearing Badges or Insignia of Officials

Section 4-1-1 Created; Composition

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

Section 4-1-2 Duties of Police Department

It is the duty of the police department, under the direction of the Chief of Police, to:

A. Enforce this Code and the statutes of the State of Arizona within the jurisdictional limits of the Town and to charge and/or arrest the violators thereof as provided by law.

B. Render such account of the police department, its duties, and receipts as may be required, and keep records of the office open to inspection by the Council, Town Attorney or Town Manager at any time.

C. Direct traffic and ensure the orderly flow thereof and investigate and make reports of traffic accidents and traffic control devices and notify the Council and Manager of any defects therein.

D. Perform such other duties as may be required from time to time to properly enforce State law and this Code.

Section 4-1-3 Departmental Policies

The police department shall be managed in accordance with such departmental policies as may from time to time be approved by Council resolution. All amendments to departmental policies shall also be approved by Council resolution. The Town Clerk shall maintain an updated copy of all current departmental policies. The Chief of Police may also adopt standard operating procedures in accordance with good police science. Standard operating procedures shall not conflict with Town or departmental policies. A copy of all such departmental standard operating procedures shall be submitted to the Town Manager and made available for Council review.

Section 4-1-4 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 whenever the Chief of Police in his/her discretion shall deem it necessary to protect lives and property when such assistance is authorized by state law or an intergovernmental agreement to provide such assistance.

Section 4-1-5 <u>Police Reserve</u>

A. There is hereby created a police reserve corps, which members shall be appointed by the Police Chief and who shall serve at the pleasure of the Chief. Such members shall serve without compensation.

B. The Chief may dismiss a member from the reserve without any hearing whatsoever, and each member shall have the right to resign from said reserve at any time.

C. To be eligible for appointment as a police reserve officer, a person shall meet all Arizona P.O.S.T. (Police Officer Standards and Training) regulations.

D. The Chief may set such additional requirements as he/she may deem necessary.

E. Each appointee, before entering upon his/her duties, shall sign an oath stating that he/she will faithfully perform the duties of police reserve officer.

F. Police reserve officers shall adhere to and be governed by the rules and regulations laid down for the guidance of the police department insofar as such rules and regulations are applicable to and consistent with the special and limited class of duty prescribed for police reserve officers by the Police Chief. Police reserve officers shall also comply with all other applicable ordinances, rules and regulations adopted by the Town Council, and as instructed by the Police Chief.

G. The police reserve officers shall not be subject to, or acquire any rights under, the personnel rules or the public safety pension fund of the state or of the Town.

H. The police reserve officers shall conform to those specifications and regulations as designated by the police chief, and shall purchase equipment and uniforms at their own expense and at no expense to the Town, or the police department.

Section 4-1-6 <u>Wearing Badges or Insignia of Officials</u>

It is unlawful for any person to wear or display a police badge or insignia, or the badge or insignia of any public officer or inspector of the Town when not properly authorized to wear such badge or insignia.

ARTICLE 4-2 ALARM SYSTEM REGULATION

Section 4-2-1 General Provisions; Definitions
Section 4-2-2 Duties and Responsibility of Alarm Users
Section 4-2-3 Automatic Dialing Devices Prohibited
Section 4-2-4 Notification Form and Fees
Section 4-2-5 Unlawful Acts and Penalties
Section 4-2-6 Service Charge Penalty for False Alarms
Section 4-2-7 Removal of Unlawful Equipment
Section 4-2-8 Additional Conditions

Section 4-2-1 General Provisions; Definitions

For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them:

A. Alarm: Any set of mechanical or electrical devices or instruments designed for the detection of an unauthorized entry on the premises, unlawful act, fire or any emergency that by any means alerts a municipal organization of its commission or occurrence when actuated.

B. False alarm: An alarm sign, eliciting a response by police or fire when a situation requiring a response by police or fire does not in fact exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user.

C. False holdup alarm: Any signal which indicates a robbery or holdup which is not the result of a holdup or robbery.

D. False panic alarm: Any signal which indicates an immediate need for police which is not the result of an immediate need for police.

E. False Smoke and/or Fire Alarm: Any signal that indicates fire and/or smoke which is not the result of fire and/or smoke or an actual emergency.

F. Automatic dialing device: A device which is interconnected with a telephone line and is programmed to select a predetermined telephone number and transmit by voice methods or code signal an emergency message indicating a need for emergency response.

Section 4-2-2 Duties and Responsibility of Alarm Users.

A. The duties of an alarm user shall be as follows:

1. To instruct all personnel who are authorized to place the system or device into operation in the appropriate method of operation.

2. To inform personnel who are authorized to place the alarm system into operation of the provisions of this article emphasizing the importance of avoiding false alarms. Commercial

Alarm account holders shall maintain a current copy of this article on the premises and be made available to persons who are authorized to place an alarm system into operation.

3. To maintain the alarm or alarm system in good working order and take reasonable measures to prevent the occurrence of false alarms.

4. To notify the police department of the name, address and telephone number of the primary person and at least one alternate, to be notified if the alarm is activated. Any changes to the primary person or alternate shall be reported to the Police Department within thirty (30) days of such change.

5. To inactivate or cause to be inactivated the alarm system within one hour of notification of its activation.

6. It shall be unlawful for any person to intentionally activate any holdup, robbery panic, and/or fire alarm for any reason other than to warn of an actual holdup, robbery, or immediate need for police and/or fire. To intentionally activate any burglar alarm for any reason other than to warn of an unauthorized entry into an alarm-protected premise.

7. Upon notification by the police or the alarm users alarm service that an alarm has been activated at a business or residence, the alarm user or representative will go to the premises of an activated alarm system in order to be available to assist the police to determine the reason for activation and in securing the premises. The alarm user or representative should not enter the business or residence until instructed to do so by police. In no event shall there be an unreasonable delay in arriving at the location of the alarm.

B. This subsection shall not apply to the testing of alarm systems when the Police Department has been given advance notice of such testing.

Section 4-2-3 <u>Automatic Dialing Devices Prohibited</u>.

It shall be unlawful for any person to use or cause to be used any telephone device or telephone attachment that automatically selects a police department primary telephone trunk line in the Town and then reproduces any prerecorded message to report any burglary or other emergency.

Section 4-2-4 <u>Notification Form and Fees</u>.

A. Every alarm user shall complete a Superior Police Department Alarm Notification Form for each alarm system. Such form shall be obtained within sixty (60) days from the effective date of this article or prior to the use of an alarm system which is installed subsequent to the expiration of sixty (60) days of the effective date of this article.

B. If the Superior Police Department records 3 or more false alarms within one calendar year a fee will be charged to the alarm user One Hundred Dollars ($100.00) for the third and subsequent false alarms. After 10 false alarms have been received in a calendar year the police department may choose to suspend their response to any further alarms. An alarm user wishing to request a False Alarm Fee be waived or a Response Suspension lifted must submit a report to the chief of police describing the cause of the excessive false alarms and the actions taken to eliminate

the cause of the false alarms. The chief of police or his/her designee will determine if the actions taken by the alarm user are sufficient to prevent the recurrence of false alarms and if the fee should be waived. The chief of police or his/her designee will give notice to the alarm user of their decision to waive the False Alarm Fee and if the actions taken by the alarm user are sufficient to cease the recurrence of false alarms.

Section 4-2-5 Unlawful Acts and Penalties.

A. In addition to the unlawful acts hereinabove specified, it shall be unlawful for any alarm user to activate an alarm system for use within the Town of Superior without first completing the Superior Police Department Alarm Notification Form and having such on file with the Superior Police Department as required by this article.

B. It shall be unlawful for any alarm user to fail to disconnect an alarm system that no longer serves a purpose for providing protection of property and/or personal safety.

C. The police department shall take every reasonable precaution to assure that alarm notifications received are given appropriate attention and are acted upon with dispatch. Nevertheless, the Town of Superior shall not be liable for any failure or neglect to respond appropriately upon receipt of an alarm notification.

D. Any person violating any provision of this article shall be guilty of a civil violation punishable as provided in section 1-5-1A of this Code.

Section 4-2-6 Service Charge Penalty for False Alarms.

False alarm charges shall be imposed according to a schedule adopted by Resolution of the Town council.

Section 4-2-7 Removal of Unlawful Equipment.

In addition to any other remedy provided by law, the Town manager may, whenever he shall have knowledge of the use of any device or attachment not operated or maintained in accordance with the provisions of this article, order the removal of such device or attachment or such line termination to which such device or attachment is connected.

Section. 4-2-8 Additional Conditions.

The following additional conditions shall be complied with:

A. That the institutions and alarm users shall always hold the Town harmless from any damages arising out of the activities of any client of the institution or alarm users in the exercise of such privileges including, but not limited to, damages to the Town, its agents, employees and institutions and alarm users while in or on the building at which the alarm is located, arising out of any defects in the alarm terminal or in the installation, maintenance, monitoring or moving thereof.

B. That the institutions and alarm users shall comply with other provisions of this article.

C. All fees herein shall be paid within 30 days of receipt.

D. Fees may be altered from time to time by Resolution of the Town Council.

CHAPTER 5 - FIRE DEPARTMENT

Article 5-1 FIRE DEPARTMENT

Section 5-1-1 Created; Composition
Section 5-1-2 Departmental Policies
Section 5-1-3 Powers and Duties of Chief
Section 5-1-4 Powers and Duties of Assistant Chief
Section 5-1-5 Appointment and Duties of Firefighters
Section 5-1-6 Entry Upon Adjacent Property
Section 5-1-7 Equipment
Section 5-1-8 Providing Fire Protection Outside the Town
Section 5-1-9 Fire Alarms
Section 5-1-10 Orders of Fire Chief
Section 5-1-11 Wearing of Badges or Insignias
Section 5-1-12 Fire Department Reserve Program
Section 5-1-13 Emergency Services Costs Recovery
Section 5-1-14 Permissible Consumer Fireworks Prohibited When Fire Restrictions

Section 5-1-1 Created; Composition

There is hereby created a Fire Department for the Town which shall consist of a Fire Chief, and as many captains, assistants, firefighters, fire marshals and volunteer firefighters as may be deemed necessary from time to time by the Council.

Section 5-1-2 Departmental Policies

The Fire Department shall be managed in accordance with such departmental policies as may from time to time be approved by Council resolution. All updates and amendments to departmental policies shall also be submitted to the Council for review and approval. The Town Clerk shall maintain an updated copy of all such departmental policies. Standard Operating Guidelines may at the discretion of the Chief be adopted in accordance with good fire science. Standard operating guidelines shall not conflict with Town or departmental policies. A copy of all such departmental standard operating guidelines shall be submitted to the Town Manager and made available for Council review.

Section 5-1-3 Powers and Duties of Chief

The Fire Chief shall:

A. Be the administrative head of the Fire Department. He/she plans, organizes, directs, and evaluates fire suppression, emergency medical and fire prevention programs and all departmental operations all in conformance with the applicable Codes, and policies.

B. Take personal command of firefighting activities at major fires, emergencies, and as appropriate. 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.

C. Conduct suitable drills or instruction in the operation and handling of equipment, emergency medical and rescue work, salvage, a study of buildings in the Town, water supplies, and all other matters generally considered essential to good fire science and safety of life and property from fire.

D. Review and approve specifications for new equipment and apparatus, and direct the maintenance, repair and replacement of firefighting equipment.

E. Direct the preparation of records and reports to secure efficient operation, to meet service demands, and to comply with authorized requests for information regarding firefighting activities and personnel.

F. When authorized by the Town Manager attend regional, state and local conferences, conventions, and meetings to keep abreast of modern firefighting methods and techniques.

G. Perform related work as required by Town Code or State law.

H. Enforce or cause to be enforced all ordinances affecting the operation of the department.

I. Perform other duties as assigned by the Town Manager.

Section 5-1-4 <u>Powers and Duties of Deputy Chief</u>

The Fire Chief may appoint a Deputy Chief who shall perform all duties of the Fire Chief when the Fire Chief is absent and such other duties as may be required by departmental policies.

Section 5-1-5 <u>Appointment and Duties of Firefighters</u>

A. Firefighters shall be appointed by the Town Manager, or designee, upon the recommendation of the Fire Chief. Full time firefighters shall be subject to personnel rules of the Town unless specifically excluded pursuant to this Code.

B. Volunteer appointees shall be able-bodied citizens at least eighteen (18) years old and as provided by applicable regulations of the Fire Chief. Volunteer firefighters may be removed by the Chief at any time with or without cause.

Section 5-1-6 <u>Entry Upon Adjacent Property</u>

A. It shall be 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 or addressing other life safety emergencies.

B. No person shall hinder, resist or obstruct any firefighter in the discharge of his/her duty as herein provided.

Section 5-1-7 Equipment

A. The Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

B. 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.

C. All equipment of the Department shall be safely and conveniently housed in such a place or places as may be designated by the Fire Chief.

D. 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.

E. 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.

F. No fire apparatus or equipment shall be hired out or permitted to leave the fire station except for training, 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 pursuant to intergovernmental agreement or contract as approved by the Council from time to time.

Section 5-1-8 Providing Fire Protection Outside the Town

A. Limitations on Out-of-Town Fire Service: No fire service shall be rendered outside the Town of Superior by the Fire Department, except in the following cases:

   1. To protect Town property located outside the Town.

   2. To protect property within the Town threatened by a fire outside the Town.

   3. To protect other public property within a reasonable distance outside the Town limits.

   4. To go to the aid of a community threatened with disaster or loss of life as the result of a spreading and uncontrolled conflagration as determined by the Fire Chief.

   5. To go to the aid of a fire protection district, municipality or other governmental entity having a mutual aid agreement or contract in force with the Town.

   6. In compliance with the adopted Emergency Operations Plan.

B. Protection of Public Property: Nothing in this article shall prevent the Fire Department from rendering service to buildings which are owned or operated by Pinal County, the State of Arizona, the United States of America, school districts, or by other such governmental agencies. The Fire Chief shall, at the time of a request for such service, determine if the Fire Department

can, with safety to the property within the Town limits, render Town fire protection in county islands or other areas in or adjacent to the Town. The Town reserves the right to charge for such services. The decision to furnish such protection shall be at the discretion of the Fire Chief or his/her designated representative.

C. Mutual Aid Agreements: The Council, shall be authorized to enter into mutual aid agreements between the Town and the State or federal government, tribe, county, municipality, or publicly constituted fire district, within a reasonable distance of the Town, wishing to participate in reciprocal fire protection service pursuant to state statute.

1. No agreement shall be effective until properly approved by the Mayor and Council and processed as required by State law.

2. No response may be made by the Fire Department to calls for assistance outside the Town when prior or coincident fire calls involving property within the Town have been received which, in the judgment of the Fire Chief, may require the full use of Town equipment.

Section 5-1-9 Fire Alarms

It is unlawful for any person to knowingly turn in, or cause to be turned in, a false alarm.

Section 5-1-10 Orders of Fire Chief

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

Section 5-1-11 Wearing Badges or Insignia of Officials

It is unlawful for any person to wear a fireman's badge or insignia, or the badge or insignia of any public officer or inspector of the Town when not properly authorized to wear such badge or insignia

Section 5-1-12 Fire Department Reserve Program

A. There is hereby created a Fire Department Reserve corps, which members shall be appointed by the Fire Chief and who shall serve at the pleasure of the Chief. Such members shall serve with such compensation as approved by the Council from time to time.

B. The Chief may dismiss a member from the reserve without any hearing whatsoever, and each member shall have the right to resign from said reserve at any time.

C. To be eligible for appointment as a reserve firefighter, a person shall:

1. Be not less than 18 years of age and have a high school diploma or its equivalent.

2. Be a resident of the State of Arizona.

3. Be a citizen, or lawful resident of the United States if authorized under the Arizona Worker Act, and possess the ability to read and write the English language understandably.

4. Be of good physical condition and mental health.

5. Be of good moral character.

6. Be able to pass medical, background and drug screen tests.

7. Have a valid Arizona driver's license.

D. The Fire Chief may set such additional requirements as he/she may deem necessary, and shall pick the best qualified applicants as reserve firefighters.

E. Each appointee, before entering upon his duties, shall sign an oath stating that he/she will faithfully perform the duties of a reserve firefighter.

F. The duties of reserve firefighters shall be to aid and assist the regular members of the Fire Department in the performance of regular fire duties as authorized by this Chapter and as prescribed by the Fire Chief.

G. Reserve firefighters shall adhere to and be governed by the policies and guidelines laid down for the guidance of the Fire Department insofar as same are applicable to and consistent with the special and limited class of duty prescribed for reserve firefighters by the Fire Chief. Reserve firefighters shall also comply with all other applicable ordinances, rules and regulations adopted by the Town Council, and as instructed by the Fire Chief.

H. Reserve firefighters shall not be subject to, or acquire any rights under, the civil service rules of this Town.

I. Reserve firefighters shall conform to those specifications and regulations as designated by the Fire Chief.

J. In the enforcement of the ordinances of the Town, and in the performance of such other duties as may be designated by the Chief, every duly authorized member shall be deemed to have all the powers of a firefighter.

K. No person shall impersonate a reserve firefighter nor shall any person undertake the duties of a reserve firefighter without having first been appointed by the Fire Chief.

L. Reserves may be required to provide uniforms and other equipment for their use. The Town may, in its discretion, provide a uniform allowance.

Section 5-1-13 <u>Emergency Services Costs Recovery</u>

The Mayor and Council may from time to time adopt a schedule of fees for emergency services response and may, by contract, or otherwise, recover such fees from any person that is not a resident of the Town of Superior or within an Automatic-Aid Intergovernmental area as provided by Intergovernmental Agreement. Responses involving intoxicated drivers, hazmat clean-up, criminal or negligent acts may be subject to all applicable fees from the responsible party regardless of residency, as determined by the Fire Chief, or designee, in consultation with the Town Attorney.

5-1-14 <u>Permissible Consumer Fireworks Prohibited When Fire Restrictions in Effect</u>

A. The use of permissible consumer fireworks as defined by A.R.S. 36-1601 (5), as amended, including ground and hand-held sparkling devices, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers, toy smoke devices, wire sparklers or dipped sticks, multiple tube fireworks devices and pyrotechnic articles, are prohibited when fire restrictions are in effect prohibiting their use, and violation hereof shall be punishable as provided by Section 1-5-1 (A).

B. No roadside or sidewalk sales of permissible fireworks shall be allowed with the Town as provided by Section 3301 of the 2006 International Fire Code.

C. Retail areas in buildings open to the public for the sale of permissible fireworks shall be equipped with an operable automatic sprinkler system that complies with Chapter 9 of the 2006 edition of the International Fire Code.

Article 5-2 FIRE PREVENTION CODE

Section 5-2-1 Adoption of the International Fire Code
Section 5-2-2 New Materials, Processes, Occupancy
Section 5-2-3 Local Amendments to International Fire Code
Section 5-2-4 Violation – Penalties

Section 5-2-1 Adoption of the International Fire Code[43]

The "International Fire Code" 2018 Edition, prepared and published by the International Code Council, shall be the Fire Code of the Town of Superior.

Section 5-2-2 New Materials, Processes or Occupancy

The Town Manager and the Fire Chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in said Fire Code. The Chief shall post such list in a conspicuous place in his/her office, and distribute copies thereof to interested persons and he/she shall forthwith request this Code to be amended to include such changes.

Section 5-2-3 Local Amendments to International Fire Code

Amend **Section 101 General** by replacing [name of jurisdiction] with "Town of Superior"

Amend **Section 903.2.8.2 Care facilities** by removing the word "shall" and replace with "may".

Amend **Section 5607.3 Blasting in congested areas**, by deleting the last sentence and adding the following subsections:

Section 5607.3.1 Testing. Seismic and air blasting testing shall be conducted by an independent testing agency and the results recorded in the blasting log for each blast. Tests may be waived for distances greater than 500 feet if the code official determines there is little probability of damage to adjoining property from the blasts.

Section 5607.3.2 Blasting Mats. When blasting within 500 feet of a structure,
Blasting mats shall be used to prevent fragments from being thrown. Mats may be required at distances exceeding 500 feet if the code official determines that further precautions are necessary to protect adjoining properties.

Section 5607.3.3 Notification. When blasting within 1000 feet of an occupied

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43**Editors' Notes**: International Fire Code, 2006 edition, and local amendments thereto originally declared to be a public record by Resolution No. 506 and adopted by Ordinance No. 109.

structure occupants shall be notified in writing no less than 48 hours and no more than 5 days prior to the blast. A copy of the notification shall be submitted to the code official at the same time as the occupants.

Amend Section 5607.4 Restricted hours, by adding the following after the last Sentence: "No blasting shall be conducted on weekends or holidays."

Add a new **Section 5607.16** as follows:

Section 5607.16 Blasting Logs. For all blasts within 1000 feet of a structure a detailed blasting log shall be maintained. The log shall be submitted to the code official within five days after the last blast authorized by the permit or upon expiration of the permit. For blasting within 500 feet of a structure, a copy of the log shall be submitted to the code official prior to the next blast. The code official shall review the log to determine that all blasting operations have been in compliance with this code. Subsequent blasting shall not be performed without permission from the code official. The log shall contain the following information:

- A copy of the approved permit and blasting plan
- The location of the blasting operation
- The date and time of each blasting occurrence
- If blasting mats or other cover was used
- A copy of the seismic readings and information on who conducted the tests
- Any and all known damage or injury that occurred as a result of the blast. If there was none, then that shall be stated
- Any other information the code official may require to demonstrate compliance with this ordinance

Failure to comply with the provisions of this section may result in revocation of the blasting permit.

Section 5-2-4 <u>Violation - Penalties</u>

A. A person shall be guilty of a civil violation punishable as provided in section 1-5-1(A) if he/she is found to:

   1. Violate or fail to comply with any provision of the Fire Code or standards hereby adopted.

   2. Violate or fail to comply with any order made thereunder.

   3. Build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken.

   4. Fail to comply with such an order as affirmed or modified by the Chief or by a court of competent jurisdiction, within the time fixed herein.

   5. Fail to comply with any other provisions of this Chapter 5.

B. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects

within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained or allowed to continue shall constitute a separate offense.

C. The application of the above penalty shall not be held to prevent the forced removal of prohibited conditions.

CHAPTER 6 MAGISTRATE COURT

Article 6-1 MAGISTRATE COURT

Section 6-1-1 Magistrate Court Established: Jurisdiction
Section 6-1-2 Prosecution
Section 6-1-3 Court User Program and Service Fee

Section 6-1-1 Magistrate Court Established: Jurisdiction

There is hereby established in the Town a Magistrate 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 violations of State laws committed within the limits of the Town.44

Section 6-1-2 Prosecution

A. All cases filed in the Magistrate court shall be charged and prosecuted in accordance with the rules of procedure applicable to the type of violation, unless more specific rules are adopted by the Arizona Supreme Court:

    1. All criminal offenses shall be prosecuted in accordance with the Arizona Rules of Criminal Procedure.

    2. All offenses carrying civil sanctions shall be prosecuted in accordance with the Arizona Rules of Procedure in Civil Traffic Cases.

B. The Town Attorney, or designee, shall supervise the prosecution of Town Code violations in the Magistrate Court. The personnel listed in section 6-2-5 (A) may file citations or long form complaints as specified in this Chapter subject to the supervision of the Town Attorney.

Section 6-1-3 Court User and Service Fee

All persons charged and convicted, by trial or admission, of any offense in the Town of Superior Magistrate Court shall be assessed a Court User Program and Service Fee in an amount established by the Mayor and Council by Resolution from time to time.

44Editors' Notes: State law reference—Authority to establish, A.R.S. § 22-402.

Article 6-2 PRESIDING MAGISTRATE - RULES OF COURT

Section 6-2-1 Presiding Town Magistrate - Created - Term of Office
Section 6-2-2 Town Magistrate
Section 6-2-3 Powers and Duties
Section 6-2-4 Proceedings of Court
Section 6-2-5 Civil or Criminal Violations, Commencement of Action
Section 6-2-6 Rules of Procedure of Civil Action
Section 6-2-7 Collection of Civil Sanctions and Judgments
Section 6-2-8 Failure to Appear for Civil Violation Proceeding
Section 6-2-9 Failure to Comply With a Civil Violation Court Order
Section 6-2-10 Habitual Offenders
Section 6-2-11 Procedure for Criminal Violations.
Section 6-2-12 Hearing Officers

Section 6-2-1 Presiding Town Magistrate - Created - Term of Office

A. The office of Presiding Town Magistrate is hereby established. The Presiding Town Magistrate shall be the presiding officer of the Magistrate Court, and shall be appointed by the Council for a term of two (2) years. He/she shall receive such compensation as the Council may from time to time provide by resolution or contract.45

B. The Presiding Magistrate shall be subject to removal from office for good cause shown. Prior to any such removal a written notice shall be provided to the Presiding Magistrate stating the grounds for possible removal. Upon request, a hearing shall be convened not less than ten (10) days following such notice and the Presiding Magistrate shall be given an opportunity to be heard. The decision of the Council shall be final.

C. Should a vacancy occur during any term, the Council shall appoint a new Presiding Magistrate to serve for the unexpired portion of said term.

Section 6-2-2 Town Magistrate

The office of Town Magistrate is hereby created. The Town Magistrate shall be appointed by and shall serve at the pleasure of the Council for such term and for such salary as the Council may determine. He/she shall perform the duties of the Town Magistrate in the absence of the Presiding Town Magistrate.

Section 6-2-3 Powers and Duties

The powers and duties of the Magistrate Court shall include:

A. The powers and duties set forth and conferred upon him/her under the provisions of the State Constitution and Arizona Revised Statutes, this Code, and the ordinances of the Town. In performing his/her duties the Magistrates shall at all times comply with the Code of Judicial Conduct.

45Editors' Notes: Presiding Magistrate A.R.S. 22-403

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

C. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies on account for same, as provided by law.

D. Payment of all fees, fines, penalties and other monies collected by the Court to the proper official as provided by law.

E. Submitting a monthly report to the Council summarizing Court activities for that month or as otherwise directed by the Council.

F. Preparation of a schedule of traffic, civil and criminal violations listing specific bails and fines for each violation.

G. Such other powers and duties as may be required to carry out the duties imposed on said court by the Supreme Court or the Legislature of the State of Arizona.

Section 6-2-4 Proceedings of Court

A. The Court shall be open for transaction of business on such days and during such hours as the Council may from time to time direct by resolution or at such other times as the Presiding Magistrate deems necessary to properly operate the Court.

B. All proceedings shall be conducted in accordance with the State Constitution, and applicable State statutes and rules of procedure which pertain to Magistrate courts.

Section 6-2-5 Civil or Criminal Violations, Commencement of Action.

A. An action to prosecute a civil or criminal violation of a provision of this Code may be commenced by issuing an Arizona Uniform Traffic Ticket and Complaint ("ticket and complaint") or by filing a summons and complaint in the Magistrate Court. Upon determining that reasonable cause exists to believe that a Defendant has committed or is responsible for a violation of this Code, the Town Attorney, any Peace Officer, Code Enforcement Officer, Animal Control Officer, Fire Marshal, Building Official, or any other person duly authorized by the Town, may issue a ticket and complaint or summons and complaint and serve the Defendant as provided in this Article.[46]

B. The ticket and complaint shall direct the Defendant to appear in Magistrate Court within thirty (30) days (not less than five, not more than thirty) after its issuance.

C. Service of the ticket and complaint or of a summons and complaint may be accomplished by the following methods:

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[46] Editors' Notes: See A.R.S. 22-421

1. In the case of both civil and criminal violations:

    a. By having the defendant sign the ticket and complaint with a promise to appear in court within thirty (30) days (no less than five, not more than thirty) of the issuance of the ticket and complaint;

    b. By hand delivering a copy of the ticket and complaint or the summons and complaint to the Defendant and filing an Affidavit of Service;

    c. By mailing a copy of the ticket and complaint or of the summons and complaint to the defendant certified or registered mail, return receipt requested, at his or her last known address. Service is complete upon filing the receipt with the court.

2. In the case of a civil violation only, by any means allowed by the Arizona Rules of Civil Procedure for the service of a summons.

3. In the case of a criminal violation only, by any means allowed by the Arizona Rules of Criminal Procedure for the service of a summons.

Section 6-2-6 <u>Rules of Procedure of Civil Action</u>.

A. At the request of either party, or on the Court's own initiative, the Court may order a pretrial conference between the Town Attorney, or designee, and the Defendant.

B. The Town Attorney may file a standing notice of appearance for civil actions to enforce this Code. If such notice is filed, the Town is not required to give notice to the Court and to the Defendant of its election to be represented by counsel for a Town Code violation.

C. The presiding Town Magistrate may serve as the Hearing Officer for civil traffic and civil offenses or the Council may appoint a separate Hearing Officer.

D. The hearing, rules of evidence, appeal, default and all matters associated with the violation will be conducted in accordance with those rules for civil traffic offenses in the State of Arizona.

E. At the conclusion of the hearing, the Magistrate or Hearing Officer shall determine whether a violation exists, and if so, may impose civil penalties up to the maximum amount specified in A.R.S. § 9-240, as amended, and the Town Code, for each day a violation exists beyond the initial notice constituting a separate offense. The Magistrate or Hearing Officer may also order abatement of the nuisance pursuant to A.R.S. § 9-499, as amended.

F. Notwithstanding any other provision of this Code, if the violator does not comply with the civil enforcement action, the Town Attorney or a Peace Officer upon direction of the Town Attorney, may issue a criminal ticket or complaint. A civil enforcement action is not a prerequisite to the filing of a criminal action.

G. A final decision of the Magistrate or Hearing Officer may be appealed pursuant to A.R.S. § 12-124, as amended.

H. Rule 64 and 64.1 of the Arizona Rules of Civil Procedure shall apply to all civil violation cases.

I. Any matter not addressed by the Arizona Rules of Court for Civil Traffic Violation cases shall be governed by the Arizona Rules of Civil Procedure. In the event of an inconsistency between a provision of this Code and a provision of either of these sets of rules, this Code shall take priority.

Section 6-2-7 Collection of Civil Sanctions and Judgments.

The Town and Town Magistrate may collect a sanction of judgment entered in a civil violation case in any manner provided by law for collecting a civil judgment. Any civil fine or judgment for civil sanctions issued pursuant to this Article shall constitute a lien against the real property of the responsible party that may be perfected by recording a copy of the fine or judgment with the Pinal County Recorder. Any judgment for civil fines or penalties pursuant to this Article may also be collected as any other civil judgment and shall bear interest at the legal rate until paid in full.

Section 6-2-8 Failure to Appear for Civil Violation Proceeding.

If a person served with a citation fails to appear on or before the time directed to appear at the time set for hearing, the allegations in the citation shall be deemed admitted and the Magistrate or civil Hearing Officer shall enter a finding of responsible and a judgment for
the Town and impose a civil sanction as authorized by section 1-5-1(A) of this Code, in an amount not less than Two Hundred Fifty ($250.00) Dollars, plus applicable surcharges.

Section 6-2-9 Failure to Comply With a Civil Violation Court Order.

Failure to comply with a civil violation court order entered pursuant to a finding of responsibility following hearing, admission, or by agreement shall be a class one misdemeanor punishable as provided in Section 1-5-1(B) of this Code.

Section 6-2-10 Habitual Offenders

A. A person who commits a violation of this Code after previously having been found responsible for committing two (2) or more civil violations of this Code within a twenty-four (24) month period --- whether by admission, by payment of the fine, by default or by judgment after hearing --- shall be guilty of a class one (1) misdemeanor. The Town Attorney, or Police Officer on direction of the Town Attorney, is authorized to file a criminal misdemeanor complaint in the Magistrate Court against habitual offenders who violate this Code. For purposes of calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.

B. Upon conviction of a violation of this Section, the Court may impose a sentence as set forth in section 1-5-1(B) of this Code. The Magistrate shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred ($500) dollars for each count upon which a conviction has been obtained, plus applicable surcharges. A judge shall not grant probation to or suspend any part or all of the imposition or execution of any sentence required by this Section except on the condition that the person pay the mandatory minimum fine as provided in this paragraph.

C. Every action or proceeding against a habitual offender, under this Section, shall be commenced and prosecuted in accordance with the rules of criminal procedure relating to criminal misdemeanors.

Section 6-2-11 Procedure for Criminal Violations.

A. All cases involving a criminal violation of this Code shall be governed by the Arizona Rules of Criminal Procedure.

B. If the Defendant in a case of criminal violation of this Code fails to pay a fine or restitution as ordered by the court, the Town may collect such fine or restitution in any manner provided by law, including petitioning the court to issue an order to show cause, to issue an arrest warrant and to punish the defendant for contempt of court.

Section 6-2-12 Hearing Officers

The Council may appoint one or more Hearing Officers to preside over civil traffic, civil violation or public nuisance cases when, in its opinion, the appointment of such Hearing Officers are necessary to assure prompt disposition of such cases. Hearing Officers may hear and dispose of such cases under supervision of the Presiding Magistrate and their decisions are appealable to the Pinal County Superior Court pursuant to Arizona Revised Statutes.

CHAPTER 7 - ANIMAL CONTROL

Article 7-1 RULES AND REGULATIONS

Section 7-1-1 Definitions
Section 7-1-2 Enforcement of Chapter
Section 7-1-3 Cruelty
Section 7-1-4 Noises; Offensive Odors; Limits on Numbers of Dogs or Cats
Section 7-1-5 Livestock
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Section 7-1-7 Strays; Housing, Limitations
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Section 7-1-10 Destruction of Injured Dogs and Other Animals
Section 7-1-11 Diseased Animals
Section 7-1-12 Kennel and/or Cattery Unlawful within the Town
Section 7-1-13 Areas Zoned Areas for Livestock-Conditions
Section 7-1-14 Dog Waste Removal; Exceptions; Sanctions

Section 7-1-1 Definitions

In this Chapter unless the context otherwise requires:

A. Animal: When used within the provisions of this Chapter shall mean dogs, cats, livestock and any animal of a species that is susceptible to rabies, except man.

B. Animal Control Authority: Shall consist of the Pinal County Enforcement Agent, the Animal Control Officer, Chief of Police, any Town Police Officer, or such other person designated by the Town Manager or Council.

C. Animal Control Officer: Means the person appointed or employed by the Town as its enforcement officer, the Pinal County Enforcement Agent, or any member of the Town Police Department.

D. Animal Shelter: Means the Pinal County Animal Shelter or "county pound" as that term is defined by A.R.S. 11-1001, or any other premises designated by the Council for the purpose of impounding and caring for all animals impounded pursuant to this Chapter.

E. At Large: Means off the premises of the owner, and being neither confined by an enclosure nor physically restrained by a leash.

F. Cattery: Means a residence, building, structure or other enclosed or controlled area in which a person keeps, harbors or maintains four (4) or more cats which are over four (4) months of age.

G. County Enforcement Agent: means the person designated pursuant to A.R.S. 11-1001.

H. Dangerous or Vicious Animal: Any animal which has attacked or bitten any human being, has a propensity to attack, to bite, cause injury or otherwise endanger the safety of human beings or other animals without provocation or which has been previously found to be a vicious animal by a Court of competent authority.

I. Exposed to Rabies: Means an animal if it has been bitten by, or been exposed to, any animal known to have been infected with rabies.

J. Fowl: Means chicken, cock, hen, duck, goose, peafowl, or other generally accepted domesticated commercial bird.

K. Kennel: Means a residence building, structure, fenced, enclosed or controlled area, in which a person keeps, harbors or maintains four (4) or more dogs which are over four months of age.

L. Livestock: Means neat animals, horses, sheep, goats, swine, mules, or asses.

M. Owner: Means any person, group of persons or corporations owning, keeping, possessing, maintaining, or harboring a dog or dogs or other animals.

N. Restraint: Means physically restrained by a leash.

O. Stray Dog or Cat: Means any dog or cat four months of age or older running at large that is not wearing a valid license tag.

P. Vaccination: Means the administration of an approved anti-rabies vaccine to animals by a veterinarian.

Q. Wild Animals: Animals which are normally found in a state of nature as further defined by A.R.S. 17-101 (A) 21 and (22), as amended from time to time.

Section 7-1-2 Enforcement of Chapter

The provisions of this Chapter shall be enforced by the Animal Control Authority as defined above. The Animal Control Authority and, in addition, the Town Attorney may file complaints for enforcement of this Article or for the collection of any monies due the Town under this Chapter.

Section 7-1-3 Cruelty

It is unlawful for any person to cruelly treat any animal in the Town in any way. Any person who inhumanely beats, fails to adequately feed or water, overloads, fails to provide shelter, abandons or who subjects any animal to temperatures in the extremes shall be deemed guilty of a violation of this Section.

Section 7-1-4 Noises; Offensive Odors; Limits on Numbers of Dogs or Cats

A. It is unlawful for any person to:

1. Harbor, possess, maintain or keep any animal which disturbs the peace of any person at any time of the day or night by barking, whining, howling or by making any similar objectionable noise in an excessive, continuous or untimely fashion.

2. Possess, maintain or keep any animal or animals on any premises in a manner which results in offensive odors being emitted or an unsanitary condition being created or maintained.

B. Within the corporate limits of the Town, it shall be unlawful for any person to harbor, maintain, house or keep at any one time, more than three (3) dogs over four (4) months of age nor more than three (3) cats which are over four (4) months of age.

Section 7-1-5 <u>Livestock</u>

A. It is unlawful to permit any livestock or fowl within the Town limits except as authorized under this Code.

B. It is unlawful to picket or tie any animal in the streets of the Town for the purpose of grazing and feeding.

Section 7-1-6 <u>Dangerous Animals</u>

A. It is unlawful to permit a dangerous or vicious animal of any kind to run at large within the Town limits. Any such animals may be immediately impounded.

B. Where Animal Control Officers have reasonable cause to believe that an animal is dangerous or vicious and may cause immediate physical injury if allowed to escape, they may make application to the Magistrate Court for an ex parte order to impound the animal provided that a civil hearing is set within five (5) working Court days.

C. Upon complaint of any person and after notice to the owner and a civil hearing, the Town Magistrate (or any judge having authority to hear the matter) may determine that an animal is dangerous or vicious. In the event that an animal is off the premises of the owner and bites a human being breaking the skin, there shall be a rebuttable presumption that the animal is dangerous or vicious and shall be destroyed absent sufficient mitigating circumstances set forth on the record. If an animal is determined to be dangerous or vicious, the Court may order one or more of the following:

1. The destruction of said animal.

2. That such animal be confined within a building or secure enclosure.

3. That such animal is securely muzzled or caged at all times.

D. The Animal Control Officer is authorized to destroy a dangerous animal of any kind, upon an order from the Town Magistrate, or when it is necessary for the protection of any person or property, when in their judgment the animal is:

1. Dangerous or vicious; and/or

2. Cannot be safely impounded.

Section 7-1-7 Strays; Housing; Limitations

A. Any person who otherwise lawfully keeps or causes to be kept any horses, mules, cattle, burros, goats, sheep or other livestock or fowl shall keep such livestock or fowl in a pen or similar enclosure to prevent their roaming at large within the corporate limits of the Town. Any such livestock or fowl running at large shall be impounded as provided in this Chapter.[47]

B. It is unlawful to cause or allow any stable, residence or place where any animal is or may be kept to become unclean or unwholesome. Any residence, property or premises upon which animals are otherwise lawfully kept shall always be sanitary and free from offensive odors and subject to inspection and regulations.

C. It is further unlawful to keep or maintain any animal enclosure or any coop, house, stable, fowl house, geese, turkey, pigeon shed, rabbit hutch, or other structure defined in this Section to be located within one hundred (100) feet of the dwelling house of any person or persons. The provisions of this Section shall not apply to sponsored programs such as 4H or F.F.A.

Section 7-1-8 Swine Prohibited

It is unlawful to keep any live swine or pigs within the corporate limits of the Town.

Section 7-1-9 Chickens, Ducks, Geese, Turkeys, Rabbits and Pigeons

It is unlawful for any person to keep any chickens, ducks, geese, turkeys, rabbits or pigeons within the corporate limits of the Town, except where specifically allowed under this Code, and only then where they are securely housed or cooped so as to prevent them from being at large. The provisions of this Section shall not apply to sponsored educational program such as the 4H or F.F.A.

Section 7-1-10 Destruction of Injured Dogs and Other Animals

Any animal which is suffering from serious injuries and is in great pain and probably would not recover, or which has evidence of any infectious disease which is a danger to other animals or to humans, may be destroyed by the Animal Control Officer, or any member of the police department, after reasonable efforts under the circumstances to notify the owner, if any, have failed.

Section 7-1-11 Diseased Animals

A. It is unlawful to allow any domestic animal afflicted with a contagious or infectious disease to be exposed in any public place whereby the health of man or beast may be affected. It is unlawful for such diseased animal to be shipped or removed from the premises of the owner thereof, except under the supervision of the Animal Control Officer.

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47 Editors' Notes: State law reference A.R.S. 9-240(B) 16

B. It is hereby made the duty of the Animal Control Officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in the cases where the State Health Department Officer or the State Veterinarian have authority under the laws of the State of Arizona.

Section 7-1-12 <u>Kennel and/or Cattery Unlawful within the Town</u>

A. It shall be unlawful to operate, maintain or establish a kennel or cattery, as defined in this Article, within the corporate limits of the Town.

B. It shall be presumed that a person is operating, maintaining or establishing a kennel or cattery if he/she has present on the premises, at one time, four (4) or more dogs over four (4) months old or four (4) or more cats over four (4) months old.

C. Veterinarians operating a licensed clinic, pet stores, authorized circuses, or other humane facilities shall be exempt from the provisions of this Section,

Section 7-1-13 <u>Areas Zoned for Livestock – Conditions</u>

A. Where otherwise lawful within certain zoning districts as provided in this Code to keep livestock, fowl, or rodents, the land on which said animals are kept or maintained shall not be less than one (1) acre and the authorization to keep and maintain said animals shall be specifically conditioned upon full compliance with the following:

1. There shall be no more than two (2) horses and/or three (3) other head of livestock maintained on the property for the first one (1) acre of land and no more than two (2) additional head for each additional one-half (1/2) acre of land owned and operated by the person keeping and maintaining said livestock.

2. No fowl, rodents, or livestock shall be cooped, stabled, or confined in any building within one hundred (100) feet from any residence, dining, or sleeping quarters which may be situated on adjacent land, and all such animals shall be kept in suitable enclosures and shall not be permitted to run at large. All such enclosures shall be maintained at all times in a clean and sanitary condition.

3. All animals allowed to be maintained within a zoning district shall be kept and maintained in such a manner as to not disturb the peace, comfort, and health of any other person residing in the Town. It shall be a violation of this Section where offensive or foul odors or noise is emitted beyond the property boundaries of the premises on which the animals are maintained.

4. If newly annexed property is actually utilized for maintaining livestock at the time of annexation, such use may continue as a non-conforming use until terminated under the provisions of the Zoning Code.

Section 7-1-14 <u>Dog Waste Removal; Exceptions; Sanctions</u>

A. It shall be a civil violation for the owner or person having custody of any dog to fail immediately to remove and dispose of in a sanitary manner any solid waste deposited by the dog on public property or on private property without the consent of the person in control of the property.

B. It shall be a civil violation for the owner, proprietor, agent or occupant of any premises where dogs are kept to deposit, cause to be deposited or allow to accumulate, within or about the premises, any solid wastes from dogs for a period of time longer than 72 hours. This paragraph applies to private property, including property owned, leased or controlled by the owner of the dog.

C. Paragraph A shall not apply to blind persons, persons with mobility disabilities, or police officers or other law enforcement officers accompanied by police dogs while on emergency.

D. Any individual who receives notice of violation and fails to appear at the hearing time designated in the notice, or at the time designated for hearing by the court, shall be deemed to have admitted the allegations of the complaint, and the court shall enter judgment for the Town and impose a civil sanction in accordance with the provisions of Section 1-5-1(A).

Article 7-2 IMPOUNDING GENERALLY

Section 7-2-1 Scope of Article
Section 7-2-2 Impounding of Wild and Farm Animals at Large
Section 7-2-3 Animal Traps
Section 7-2-4 Notice to Owners of Impoundment
Section 7-2-5 Report of Impounded Animals
Section 7-2-6 Conditions and Duration of Impoundment
Section 7-2-7 Impeding Animal Control Officer
Section 7-2-8 Biting Animals

Section 7-2-1 Scope of Article

The provisions of this Article shall apply to the impoundment of any and all animals, except dogs and cats. The intent of this Article is to regulate the impoundment of wild and farm animals.

Section 7-2-2 Impounding of Wild and Farm Animals at Large

It shall be the duty of the Animal Control Officer, assisted by the police as may be required, to stabilize the situation when animals, other than dogs or cats, are found at large, except where lawfully under the charge, care or control of a person. Appropriate county, state or federal agencies with jurisdiction shall be immediately notified.

Section 7-2-3 Animal Traps

The Animal Control Authority may set cat and dog traps to catch strays upon reasonable request of Town property owners. The Animal Control Officer shall only impound animals from traps set by the Animal Control Officer. Traps will not be set for wild animals unless there is a specific rabies exposure from that animal. Citizens that set animal traps are required to dispose of the animals they catch as instructed by the appropriate county, state or federal agency with jurisdiction.

Section 7-2-4 Notice to Owners of Impoundment

If the owner of any impounded animal is known to the Animal Control Officer and resides or has a known place of business in the Town, the Animal Control Officer shall notify the owner personally or by written notice within twenty-four (24) hours after such animal has been taken up and/or impounded. The notice shall contain a description of the animal, where impounded, and shall state that unless reclaimed the animal will be sold, placed for adoption, or destroyed as provided by law.

Section 7-2-5 Report of Impounded Animals

The Animal Control Officer shall, within twenty-four hours (24) after taking and impounding any animal, make a report to the Police Department stating the kind of animal and describing it by color, marks, or brands or otherwise, where the animal is impounded and when the animal was taken up and impounded.

Section 7-2-6 Conditions and Duration of Impoundment

The Animal Control Officer may take an animal impounded under this Article to the agency having jurisdiction, or to any other place designated by the Town Manager, who shall keep same in accordance with law. The duration of impoundment shall not be less than three (3) days, unless sooner claimed by the owner and the impound charges are paid therefore.

Section 7-2-7 Impeding Animal Control Officer

It is unlawful for any person to, in any manner, intervene, impede, prevent, obstruct or intimidate the Animal Control Officer or any of his/her deputies or Town Police in the discharge of their duties in taking up or attempting to take up and impound any and all animals which it shall be their duty to impound under the provisions of this Chapter, or who shall rescue or attempt to rescue any animal so taken up or to release any animal so impounded

Section 7-2-8 Biting Animals

Whenever any animal bites a person, the person so bitten and the owner of the animal shall immediately notify the County Enforcement Agent, or any member of the Police Department who shall immediately turn the case over to the County Enforcement Agent as provided by law.[48]

48**Editors' Notes**: State law reference: See, A.R.S. 11-1003

Article 7-3 RABIES CONTROL- IMPOUNDMENT AND DISPOSAL OF DOGS AND CATS

Section 7-3-1 Rabies Control - Compliance with State Law
Section 7-3-2 Dogs or Cats "At Large" Prohibited
Section 7-3-3 Impoundment of Dogs and Cats and Disposal
Section 7-3-4 Redemption of Impounded Dogs, Cats or Other Animals
Section 7-3-5 Confinement of Certain Dogs and Other Animals
Section 7-3-6 Rabies Control - Animal Bites
Section 7-3-7 Reports of Bite Cases
Section 7-3-8 Responsibilities of Veterinarians
Section 7-3-9 Exemptions
Section 7-3-10 Investigation

Section 7-3-1 Rabies Control - Compliance with State Law

For purposes of rabies control, it shall be the policy of the Town to assist the County Enforcement Agent in carrying out his/her obligations under State law. The provisions of this Chapter shall only be interpreted as an effort to provide that assistance rather than as a substitute for the provisions of State law.

Section 7-3-2 Dogs or Cats "At Large" Prohibited

A. No person owning, keeping, possessing, harboring or maintaining a dog or cat shall allow such dog or cat to be at large. A dog or cat is not deemed to be at large:

   1. While such dog or cat is actively engaged in obedience training, accompanied by and under the control of his/her owner or trainer in a training school which has been approved by the Town Animal Control Officer.

   2. While such dog is being exhibited at an American Kennel Club approved show, or similar authorized and organized show.

   3. While such dog is engaged in races approved by Arizona Racing Commission.

   4. While such dog is within a Town authorized dog park.

B. The Animal Control Officer shall apprehend any dog or cat running at large contrary to the provisions of this Section.[49]

Section 7-3-3 Impoundment of Dogs and Cats and Disposal

A. Cats running at large shall be taken by the Animal Control Officer and impounded in the shelter designated as the Town Animal Shelter or County Animal Shelter, and there to be confined in a humane manner for a period of not less than three (3) days, and may be thereafter disposed of in a humane manner if not claimed by their owners. Cats not claimed by their owners before

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[49] Editors' Notes: A.R.S. 9-240(B) 16

the expiration of three (3) days shall become the property of the Animal Control Authority and may be disposed of at the discretion of said Authority.

B. Any "stray" dog, as defined in Section 7-1-1, shall be delivered to the County Enforcement Agent established pursuant to the provisions of State law. The impounding or disposal of such strays shall be as prescribed by State law.50

C. If the dog found at large has current county license and tags on it, the Animal Control Officer shall identify the owner from public records and shall deliver the animal to the owner, if possible, and cite the owner for a violation of this Article or state law.

D. Animals other than dogs and cats shall be impounded when found running at large within the Town limits and disposed of in accordance with the provisions of Article 7-2 of this Code.

Section 7-3-4 <u>Redemption of Impounded Dogs, Cats or Other Animals</u>

A. Any animal impounded by the Town under the provisions of this Chapter may be reclaimed by the owner upon the payment of fees, penalties and costs incurred as established by the applicable Animal Control Authority. The release of stray dogs shall be as determined by the county enforcement agency pursuant to State law.

B. Any animal, other than a dog or cat, impounded under the provisions of this Chapter and not reclaimed by its owner within three (3) days may be humanely destroyed by a veterinarian, Animal Control Officer or placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this Chapter and such other regulations as shall be fixed by the Town. If the animal is one as to which the respective rights of the owner and the person in possession or custody are determined by State law, such law shall be complied with in full.

Section 7-3-5 <u>Confinement of Certain Dogs and Other Animals</u>

A. The owner shall confine, within a building or secure enclosure, every fierce, dangerous or vicious dog, and shall not take or allow such dog out of such building or secure enclosure unless such dog is securely muzzled. A sign must be posted in a conspicuous place at the entrance to the premises advising the public of the dangerous or vicious nature of the dog maintained therein.

B. Every female dog or cat in heat shall be kept confined on the property of the owner or in a veterinary hospital, boarding kennel, in such a manner that such female dog or cat cannot come in contact with another animal, except for intentional breeding purposes.

C. No wild animal may be kept within the Town limits, except under such conditions as shall be fixed by the Town and governmental entity with jurisdiction over said animal pursuant to the provisions of State law.

50**<u>Editors' Notes</u>**: State law reference: See, inter alia, A.R.S. 11-1013

D. Any animal described in Subsection (C) found at large shall be impounded by the Animal Control Officer and may not be redeemed by the owner unless such redemption is authorized by a Court having jurisdiction.

E. When in the judgment of a licensed veterinarian or the Animal Control Officer an animal should be destroyed for humane reasons, such animal may not be redeemed.

Section 7-3-6 Rabies Control - Animal Bites

A. Every animal which bites a person shall promptly be reported to the County Enforcement Agent and Animal Control Officer as required by State law. Treatment and confinement of said animal shall be as provided by State law.

B. Upon demand made by the County Enforcement Agent, the Animal Control Officer or the police, the owner shall forthwith surrender any animal which has, or is suspected of having bitten a human, or which is suspected of having been exposed to rabies, for supervised quarantine. The expense shall be borne by the owner, and the animal may be reclaimed by the owner if adjudged free of rabies, upon payment of all cost and fees incurred or charged by Pinal County. The animal may be quarantined at the owner's residence with proof of proper vaccination and approval of the County Enforcement Agent.

C. The Animal Control Officer may assist the County Enforcement Agent in enforcement of State law.[51]

Section 7-3-7 Reports of Bite Cases

It shall be the duty of every physician or other practitioner to immediately report to the County Enforcement Agent or Animal Control Officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.[52]

Section 7-3-8 Responsibilities of Veterinarians

It shall be the duty of every licensed veterinarian to report to the Animal Control Officer his/her diagnosis of any animal observed by him/her as a rabies suspect.

Section 7-3-9 Exemptions

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Chapter, except where such duties are expressly stated.

51**Editors' Notes**: State law reference: See, A.R.S. 11-1014; 11-1003

52**Editors' Notes:** State law reference: A.R.S. 11-1014

Section 7-3-10 <u>Investigation</u>

Solely for the purpose of discharging the duties imposed by this Chapter and the enforcement of its provisions, the Animal Control Officer or any Police Officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition of the license for such dog and to examine the animal.

Article 7-4 KEEPING OF BEES

Section 7-4-1 Unlawful Keeping, Permission of Adjoining Property
Section 7-4-2 Limitations on Number of Hives
Section 7-4-3 Location of Hives
Section 7-4-4 Supplies of Water and Other Nutrients
Section 7-4-5 Town Liability
Section 7-4-6 License Required

Section 7-4-1 Unlawful Keeping, Permission of Adjoining Property

It is unlawful for any person or entity to keep bees on any lot or parcel of land consisting of less than forty (40) thousand square feet in area. It is unlawful for any person or entity to keep bees on any lot or parcel of land consisting of more than forty (40) thousand square feet of area without first obtaining written permission consenting to the keeping of bees on such lot or parcel from all of the lawful occupants and the lawful owners of adjoining lots or parcels of land which are contiguous to the said lot or parcel. Those desiring to keep bees on a parcel or lot greater than forty (40) thousand square feet in area shall first obtain the prior written consent of seventy-five (75%) percent of the lawful occupants and owners of the lots or parcels of land within three hundred (300) feet of the proposed bee parcel and obtain a license as provided in this Article.

Section 7-4-2 Limitations on Number of Hives

It is unlawful for any person to keep or maintain more than one (1) hive or colony of bees for each two thousand (2,000) square feet of area within any lot or parcel of land upon which bees may be lawfully kept or maintained within the Town. However, no more than four (4) hives or colonies will be allowed for each square mile of land area within the Town limits. A hive or colony as defined in this Article shall be the prevailing size of hives currently used within the honey industry.

Section 7-4-3 Location of Hives

Any hives or colonies of bees being kept or maintained should be located as far as possible from all exterior property boundaries but in no case shall any hive or colony of bees be kept or maintained within thirty (30) feet of any boundary line of the lot or parcel upon which the bees are kept.

Section 7-4-4 Supplies of Water and Other Nutrients

Any person keeping or maintaining bees within the Town shall provide a constant and easily accessible supply of water or other nutrients of sufficient quantity to meet the needs of all bees being maintained or kept.

Section 7-4-5 Town Liability

The Town shall have no liability or responsibility for the keeping of bees within the Town limits.

Section 7-4-6 License Required

A. Prior to the keeping of bees, a Town beekeeping license shall be secured from the Town which shall establish a public record containing the following information:

   1. Facts and exhibits to show full compliance with all requirements of Section 7-4-1 of this Article and all applicable provisions of State law.

   2. The dimensions of the lot or parcel.

   3. The exact location of the hive or hives.

   4. The local person or entity responsible for the bees together with a current address and telephone number.

B. The license fee shall be established by Council Resolution.

C. The license shall be renewable annually. The renewal shall include verification by the beekeeper of the requisite neighboring property owners' consent and compliance with all other provisions of this Article.

Article 7-5 <u>PENALTIES</u>

Section 7-5-1 Penalties

Section 7-5-1 <u>Penalties</u>

A. Any person, owner, corporation or business found to have violated any provisions of this Chapter 7 shall be cited for a civil violation and shall be punished as provided in Section 1-5-1(A) of this Code.

B. Each day a violation continues shall be a separate offense punishable as hereinabove described.

C. In determining the "owner" of the subject animal, the man and/or woman having control of the premises upon which the animal is possessed, harbored or maintained, shall also be responsible for the provisions of this Chapter and may be cited and punished jointly and severally with any other owner.

D. Should it be determined that the subject animal belongs to a minor under the age of eighteen (18) years, then the parents or adult owner of the premises upon which the animal is kept, possessed, harbored or maintained shall be responsible for the provisions of this Chapter and may be cited and punished for violation thereof.

CHAPTER 8 - BUSINESS REGULATIONS

Article 8-1 <u>BUSINESS LICENSE FEE</u>

Section 8-1-1 Definitions
Section 8-1-2 Purpose and Effect of Article; Cumulative Remedies
Section 8-1-3 Effect of Article on Past Actions
Section 8-1-4 Violations - Penalty
Section 8-1-5 Exemptions Generally
Section 8-1-6 Powers and Duties of Administrator
Section 8-1-7 Imposition of License fee; Evidence of Doing Business
Section 8-1-8 Amount of License fee / Time of Payment
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Section 8-1-16 Confidentiality of Information
Section 8-1-17 Delinquent fee Penalties; Collection; Fee a Debt
Section 8-1-18 Refund of Overpayments
Section 8-1-19 Appeal from Decisions of the Administrator

Section 8-1-1 <u>Definitions</u>

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

A. <u>Average number of employees</u>: Means the average number of persons employed in the applicant's business, for the three (3) month period ending on the last day of the calendar quarter preceding the date of an application for a business license.

B. <u>Administrator</u>: Means the Town Manager, or designee, charged with the administration of this Chapter.

C. <u>Business</u>: Includes professions, trades and occupations and each and every kind of calling whether or not carried on for profit.

D. <u>Gross receipts</u>: Means the total of amounts actually received or receivable from sales and the total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" are all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from "gross receipts" are the following:

1. Cash discounts allowed and actually taken on sales.

2. Credit allowed on property accepted as part of the purchase price and which property may later be sold.

3. Any tax required by law to be included in or added to the purchase price and collected from the customer or purchaser.

4. Such part of the sales price of property returned by purchasers upon rescission of the contract of sale as if refunded either in cash or by credit.

5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the Administrator with the names and addresses of the others and the amounts paid to them.

6. Receipts of refundable deposits, except that refundable deposits forfeited and taken into the business as income shall not be excluded.

E. Person: Includes all domestic and foreign corporations both for profit and not for profit, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business, or common law trusts, societies, and individuals transacting and carrying on any business in the Town, other than as an employee.

F. Sale: Means the transfer, in any manner or by any means whatsoever, of title to property for a consideration; the serving, supplying or furnishing for a consideration of any property; a transaction whereby any service is rendered for consideration and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law.

G. Sworn Statement: Means an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.

Section 8-1-2 Purpose and Effect of Article; Cumulative Remedies

A. This Article is enacted solely to raise revenue for municipal purposes, and is not intended for regulation.

B. Persons required to pay a license fee for transacting and carrying on any business under this Article shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the Town and such persons shall remain subject to all other revenue and regulatory ordinances of the Town.

C. All remedies prescribed under this Article shall be cumulative and supplemental and the use of one (1) or more remedies by the Town shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Article.

Section 8-1-3 <u>Effect of Article on Past Actions</u>

A. Neither the adoption of this Article nor its superseding of any portion of any other ordinance of the Town shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date hereof, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited and all rights and obligations thereunto appertaining shall continue in full force and effect.

B. Where a license for revenue purposes has been issued to any person by the Town and the tax paid for the business for which the license has been issued under the provisions of any ordinance theretofore enacted and the term of such license has not expired, then the license fee prescribed for said business by this Article shall not be payable until the expiration of the term of such license.

Section 8-1-4 <u>Violations – Penalty</u>

Any person violating any of the provisions of this Article shall be guilty of civil violation punishable as provided in Section 1-5-1(A)**,** each day a violation continues shall be a separate offense.

Section 8-1-5 <u>Exemptions Generally</u>

A. Nothing in this Article shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State from payment of such fees as are herein prescribed. The following are exempt from payment of the fee levied by this Article:

    1. Churches, Superior Chamber of Commerce, fraternal organizations, schools, childcare providers and organizations created expressly for charitable purposes.

    2. Governmental agencies and those businesses working exclusively under grant funds from the Federal, State, Tribal or Local Governments.

B. Any person claiming an exemption pursuant to this Section shall file a sworn Statement with the Administrator stating the facts upon which exemption is claimed, and in the absence of such Statement substantiating the claim, such person shall be liable for the payment of the fees imposed by this Article. The Administrator shall, upon proper showing contained in the sworn Statement, file the sworn Statement in lieu of issuing a license to such person claiming exemption under this Section without payment to the Town of the license fee required by this Article. The Administrator, after giving notice and a reasonable opportunity for hearing to a person claiming exemption under this Section, may revoke their exempt status upon information that the licensee is not entitled to the exemption as provided herein and collect such license fees as would be owing had no exemption been claimed.

Section 8-1-6 <u>Powers and Duties of Administrator</u>

A. It is the duty of the Administrator to enforce the provisions of this Article.

B. The Administrator in the exercise of the duties may examine or cause to be examined all places of business in the Town to ascertain whether the provisions of this Article have been complied with. The Administrator, his/her assistants, and any police officer, shall have the power and authority, upon obtaining an inspection warrant therefore or as otherwise authorized by law, to enter free of charge, and at any reasonable time, any place of business required to be licensed herein, and demand an exhibition of its license. Any person having such license theretofore issued, in his/her possession or under his/her control, who willfully fails to exhibit the same on demand, is guilty of a civil violation punishable as provided in Section 1-5-1(A)**,** and the Administrator or his/her assistants shall cause a complaint to be filed against any person found to be violating any provision of this Article.

Section 8-1-7 <u>Imposition of License Fee; Evidence of doing Business</u>

A. There is imposed upon the businesses, trades, professions, callings and occupations specified in this Article license fees in the amounts hereinafter prescribed. No person shall transact or carry on any business, trade, profession, calling or occupation in the Town without first having procured a license from the Town to do so and paying the fee hereinafter prescribed or without complying with the applicable provisions of this Article.

B. This Section shall not be construed to require any person to obtain a license prior to doing business within the Town if such requirement conflicts with applicable statutes of the United States or of the State. Persons not so required to obtain a license prior to doing business within the Town nevertheless shall be liable for payment of the fee imposed by this Article.

C. When any person shall by use of signs, circulars, cards, telephone book or newspapers, advertise, hold out, or represent that he/she is in business in the Town, or when any person holds an active license or permit issued by a governmental agency indicating that he/she is in business in the Town, and such person fails to deny by a sworn Statement given to the Administrator that he/she is not conducting a business in the Town, after being requested to do so by the Administrator, then these facts shall be considered prima facie evidence that he/she is conducting a business in the Town.

Section 8-1-8 <u>Amount of License Fee / Time of Payment</u>

A. All businesses, occupations, professions, trades or callings listed hereunder shall pay a license fee in an amount established by the council from time to time. Such fee is an annual fee unless otherwise specified.

   1. Retail or wholesale sales business, not otherwise listed in this section, including but not limited to, antique sales, hardware stores, grocery stores, auto sales, auto parts sales, restaurants, gasoline service stations, furniture and department store sales, clothing, drug, sporting goods, medical marijuana, variety or notion store.

Service industry or business including, but not limited to, plumbing service, pest control, travel agent, real estate, financial institutions, barbers, beauty shop, full year and part year photographers, tattoo parlors, cleaning or repair service, and locksmith and part year bookkeepers and fee preparers.

Gross Sales Per Year:
Less than $50,000 [Set these fees by Resolution]
$50,000 or more, but less than $100,000
$100,000 or more

2. Liquor Sales:

   Bars and Establishments (drinks sold in individual portions)

   Liquor Store licensed for On-sale Retailer's License to sell all spirituous liquors by individual portions and in the original containers

   Liquor Store licenses for On-sale

   Retailer's License to sell wine and beer by individual portions and in the original containers or Off-sale Retailer's License to sell all spirituous liquors

Businesses included in Subsection "A" where primary business is other than liquor sales shall be licensed pursuant to Subsection "A" and shall not be required to obtain a license for liquor sales.

3. Private Practice of Professions:
   - Accountants
   - Bookkeepers
   - Chiropractors and Chiropodists
   - Dentists
   - Dermatologists
   - Doctors
   - Engineers
   - Optometrists
   - Mortician
   - Veterinarians
   - Attorneys

4. Pawn Brokers

5. Gun Sales or Trade

6. Transient Peddlers or Door-To-Door Sales:

7. Swap Meet:

Each vendor or stand located within the Swap Meet for each week or any part of the week said stand or vendor offers goods for sale shall pay a license fee as established by the council from time to time.

8. Operations including telephone, telegraph, electrical, natural gas and water utility service, or similar businesses using lines within, over, or upon the streets or alleyways of the Town shall pay a quarterly license fee as determined by Resolution of the Council. All such fees shall be paid within forty-five (45) days of the end of each quarter and a statement of earnings shall be filed on such forms as the Administrator shall require.

9. Television cable service shall pay a quarterly license fee as determined by Resolution. All such fees shall be paid within forty-five (45) days of the end of each quarter and a statement of earnings shall be filed on such forms as the Administrator shall require.

10. All other businesses or trades not included in subsection (1) through (9) above, including wholesale delivery shall pay a fee for each year or part thereof as established by resolution of the council from time to time, unless the administrator classifies the business pursuant to section 8-1-8 (A), in such case the fee shall be as set for that classification.

11. At the time the license fee is paid, all businesses required to be licensed pursuant to subsection (1) of this section, shall file a statement under oath of the volume of business conducted within the Town in the preceding year.

B. Unless otherwise specifically provided, all license fees payable pursuant to the provisions of this article shall be paid in advance on an annual basis. The fees shall be due and payable on July 1 of each year and are delinquent after July 31. License fees covering new operations commenced after July 1, shall not be prorated. Recovery of back fees owed shall be limited to a maximum of the current license fee due plus the fee due for ten (10) prior years with penalties as provided in this article.

C. All fees due and payable pursuant to paragraph 8 and 9 of this section shall be timely made. The administration shall impose a penalty for any fee not timely made in the amount as determined by the council from time to time.

Section 8-1-9 <u>Application for First License</u>

A. Upon a person making application for the first license to be issued hereunder or for a newly established business, such person shall furnish to the Administrator a sworn Statement, upon a form provided by the Administrator, setting forth the following information:

1. The exact nature or kind of business for which a license is requested.

2. The place where such business is to be carried on and the places of residence of the owners of same.

3. In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the names and places of residences of those owning said business.

4. In the event that the application is made for the issuance of a license to a corporation or a partnership, the names and places of residences of the officers or partners thereof.

5. In all cases where the amount of license fee to be paid is measured by gross receipts, such information as may be required and as may be necessary to determine the amount of the fee to be paid by the applicant.

6. Any further information which the Administrator may require to enable him/her to issue the type of license applied for.

7. Proof of citizenship as required by State statutes.

8. Copies of other licenses required to do business in the State of Arizona or Pinal County, including but not limited to Transaction Privilege Tax license, Contractor's License and Health Department license.

B. New businesses whose fee is determined by paragraph (A) (1) of this Section shall pay the minimum license fee in the first period of operation.

C. The Administrator shall not issue to any such person another license for the same or any other business, until such person shall have furnished to him/her the sworn Statement and paid the license fee as herein required.

Section 8-1-10 <u>False Statements in Applications</u>

It is unlawful to knowingly or intentionally misrepresent to any officer or employee of the Town any material fact in procuring a license under this Article.

Section 8-1-11 <u>Contents of License</u>

A. Every person required to have a license under the provisions of this Article shall make application as prescribed for same to the Administrator, and upon the payment of the prescribed fee the Administrator shall issue to such person a license which shall contain the following information:

1. The business licensed.

2. The place where such business is to be acted and carried on.

3. The date of the expiration of such license.

4. Such other information as may be necessary for the enforcement of this Article.

Section 8-1-12 <u>Posting and Display of Licenses</u>

A. Any licensee transacting and carrying on business at a fixed place of business in the Town shall keep the license posted in a conspicuous place upon the premises where such business is carried on.

B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the Town shall keep the license upon his/her person at all times while transacting and carrying on the business for which it is issued.

Section 8-1-13 <u>License Nontransferable; Branch Locations</u>

A. No license issued pursuant to this Article shall be transferable, provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may upon application therefore authorize the transacting and carrying on of such business under the license at some other location to which the business is or is to be moved; provided further that transfer, whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this Subsection. For the purpose of this Subsection, stockholders, bondholders, partnerships or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity.

B. A separate license shall be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this Article shall not be deemed to be separate places of business or branch establishment and provided further that any person conducting two (2) or more businesses at the same location and under the same management, or at different locations, but which businesses use a single set or integrated set of books and records, may, at his/her option, pay only one (1) fee.

Section 8-1-1 4 <u>Renewal and Duplicate Licenses</u>

A. In all cases, the applicant for the renewal of a license under this Article shall submit to the Administrator for his/her guidance in ascertaining the amount of the license fee to be paid by the applicant, a sworn statement, upon a form to be provided by the Administrator, setting forth such information concerning the applicant's business during the preceding year as may be required by the Administrator to enable him/her to ascertain the amount of the fee to be paid by said applicant pursuant to the provisions of this Article.

B. A duplicate license may be issued by the Administrator to replace any license previously issued upon request of the license.

Section 8-1-15 <u>Statements and Records; Failure to File</u>

A. No Statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the Town from collecting by appropriate action such sum as is actually due and payable under this Article. Such Statement and each of the several items therein contained shall be subject to audit and verification by the Administrator, his/her deputies or authorized employees of the Town, who are authorized to examine, audit and inspect such books and

records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the amount of the license fee due.

B. All persons subject to the provisions of this Article shall keep complete records of business transactions, including sales, receipts, purchases, number of employees, and other expenditures, and shall retain all such records for examination by the Administrator. Such records shall be maintained for a period of at least three (3) years. No person required to keep records under this Section shall refuse to allow authorized representatives of the Administrator to examine said records at reasonable times and places.

C. If any person fails to file any required Statement within the time prescribed, or if after demand therefore made by the Administrator he/she fails to file a corrected Statement, or if any person subject to the fee imposed by this Article fails to apply for a license, the Administrator may determine the amount of license fee due from such person by means of such information as he/she may be able to obtain. If the Administrator is not satisfied with the information supplied in Statements or applications filed, he/she may determine the amount of any license fee due by means of any information he/she may be able to obtain.

D. If such determination is made, the Administrator shall give notice of the amount so assessed by depositing it in the United States Post Office, postage prepaid, addressed to the person or business so assessed at his/her last known address. Such person may, within fifteen (15) days after the mailing or serving of such notice, make application in writing to the Administrator for a hearing on the amount of the license fee. If such application is made, the Administrator shall cause the matter to be set for hearing within thirty (30) days. The Administrator shall give at least ten (10) days notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The Administrator shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such finding shall be served upon the applicant in the manner prescribed above for serving notices of assessment.

Section 8-1-16 <u>Confidentiality of Information</u>

A. Information required or obtained under the provisions of this Article shall not be disclosed in any manner, except in accordance with law, including the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a license, or pay a license fee, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth in any Statement or application, or to permit any Statement of application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person.

B. Nothing in this Section shall be construed to prevent:

1. The disclosure to, or the examination of records and equipment by another Town official, employee or agent for collection of fees for the sole purpose of administering or enforcing any provisions of this Article, or collecting fees imposed under this Article.

2. The disclosure of information to, or the examination of records by federal or State officials, or the fee officials of another Town or county, or Town and county, if a reciprocal arrangement exists, or to grand jury or court of law, upon subpoena.

3. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence of amount of any license fee liability of the particular taxpayers to the Town.

4. The disclosure after the filing of a written request to that effect, to the taxpayer himself/herself, or to his/her successors, receivers, trustees, executors, Administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid fee, any unpaid fee or amounts of fee required to be collected, interest and penalties; provided, however, that the Town Attorney approves each such disclosure and that the Administrator may refuse to make any disclosure referred to in this paragraph when in his/her opinion the public interest would suffer thereby.

5. The disclosure of the names and addresses of persons to whom licenses have been issued, and the general type or nature of their business.

6. The disclosure by way of public meeting or otherwise of such information as may be necessary to the Town Council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of license fees, or submits an offer of compromise with regard to a claim asserted against him/her by the Town for license fees, or when acting upon any other matter.

7. The disclosure of general statistics regarding fees or taxes collected or business done in the Town.

8. Disclosure of records as required by the public records statutes of this State.

Section 8-1-17 <u>Delinquent Fee Penalties; Collection; Fee a Debt</u>

A. For failure to pay a license fee required by this Article when due, the Administrator shall add a penalty, in an amount as provided by resolution of the Council from time to time, on the last day of each month after the due date thereof.

B. No license shall be issued, nor one which has been suspended or revoked shall be reinstated or reissued to any person, who at the time of applying therefore, is indebted to the Town for any delinquent license fees, taxes or utility fees.

C. The amount of any license fee and penalty imposed by the provisions of this Article shall be deemed a debt to the Town. An action may be commenced in the name of the Town in any court of competent jurisdiction, for the amount of any delinquent license fee and penalties and interest. Persons intending to discontinue a business shall report same to the Administrator on a verified form provided for such purpose. Persons failing to file such forms shall be liable for all deficiencies and penalties.

Section 8-1-18 Refund of Overpayments

No refund of an overpayment of fees imposed by this Article shall be allowed in whole or in part unless a claim for refund is filed with the Administrator within a period of three (3) years from the last day of the calendar month following the period for which the overpayment was made, and all such claims for refund of the amount of the overpayment shall be filed with the Administrator on forms furnished and in the manner prescribed by him/her. Upon the filing of such a claim, and when he/she determines that an overpayment has been made, the Administrator may refund the amount overpaid.

Section 8-1-19 Appeal from Decisions of the Administrator

A. Any person aggrieved by any decision of the Administrator with respect to the amount assessed as a fee or who believes that any of his/her activities are not subject to the license fee required by this Article shall pay the amount of such assessment or fee claimed due before the delinquent date and shall at that time give notice, in writing, to the Administrator that all or part of such payment is made under protest and shall in the notice give the grounds and reasons for such protest and that a certain part thereof or that the total sum is protested.

B. Within fifteen (15) days after receipt of such protest, the Administrator shall reply, in writing, to the last known mailing address of the taxpayer stating whether the fee applied is to be changed as requested and giving reasons for the decision.

C. If the taxpayer is dissatisfied he/she may take appropriate action in any court of competent jurisdiction within the State to recover payment made under protest. Court action shall be taken within sixty (60) days after the Administrator has mailed his/her reply as required. Failure to take court action within the required sixty (60) day period shall make the protest null and void.

D. If court action has been taken by the taxpayer all subsequent payments due shall be paid on or before the due date. However, if each fee form is plainly marked "paid under protest" such subsequent payment shall be treated as part of the original protest until such time as court remedies have been exhausted or the court action has been withdrawn by the taxpayer.

Article 8-2 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

Section 8-2-1 Purpose of this Article
Section 8-2-2 License Required
Section 8-2-3 Definitions
Section 8-2-4 Application and Application Fee
Section 8-2-5 Fees
Section 8-2-6 License to be Posted
Section 8-2-7 Unlawful Acts
Section 8-2-8 Duty of Police Officers to Enforce
Section 8-2-9 Violations - Penalty

Section 8-2-1 Purpose of this Article

The purposes of this Article shall be to protect the health, safety, and welfare of residents of the Town by means of investigation and regulation of peddlers, solicitors, canvassers, and transient merchants.

Section 8-2-2 License Required

It shall be unlawful for any peddler, solicitor, canvasser, transient merchant, itinerant merchant, or itinerant vendor as the same is herein defined to engage in such business within the corporate limits of the Town without first obtaining a license therefore in compliance with the provisions of this Article; provided, however, that the provisions of this Article shall not apply to persons soliciting for newspaper subscriptions, to the producers of agricultural products as defined in A.R.S. §3-561 or to any member of the family or agents or persons in the service of the producer when the agricultural products are sold or disposed of on behalf of and for the benefit of the producer, nor to any bona fide, tax-exempt, not-for-profit organization.

Section 8-2-3 Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

A. Peddler: Any person who, either personally or through agents or employees or by transporting either persons or property, whether a resident of the Town or not, travels by foot, motor vehicle, or any other type of conveyance from place to place, from house to house, or from street to street carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions who offers and exposes the same for sale or who makes sales and delivers Articles to purchasers or who, without traveling from place to place, shall sell or offer the same for sale from a motor vehicle, railroad car, or other vehicle or conveyance or from a fixed location on foot, and further provided that one who solicits orders and as a separate transaction makes delivery to purchasers as a part of the scheme or design to evade the provisions of this Chapter shall be deemed a peddler subject to the provisions herein contained**.** The definition set forth above shall not be construed to include participants in authorized farmers markets where the fruits, vegetables and such other farm products have been grown by the participant.

B. Solicitor or Canvasser: Any individual, whether resident of the Town or not, traveling either by foot, motor vehicle, or any other type of conveyance from place to place, from house to house, or from street to street taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether he is collecting advance payments on such sales or not, provided that such definition shall include any person who, for himself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

C. Transient Merchant, Itinerant Merchant, Itinerant Vendor: Any person, whether owner or otherwise, whether a resident of the Town or not, who engages in a temporary business of selling and delivering goods, wares, food items, and merchandise within said Town and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, tent, space, railroad boxcar, or boat or public room in a hotel, lodging house, apartment, shop, or any street or any other place within the Town for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction, provided that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this Article merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant, or auctioneer.

Section 8-2-4 Application and Application Fee

Applicants for a license under this Article must file with the Administrator, as defined in Article 8-1, a sworn application in writing on a form to be furnished by the Town which shall contain, but not necessarily be limited to, the following information:

A. Name and description of the business entity.

B. Address (legal and local).

C. A brief description of the nature of the business and the goods to be sold.

Section 8-2-5 Fees

The license fee for any peddler, solicitor, canvasser, transient merchant shall be as set as provided in Article 8-1 of this Chapter.

Section 8-2-6 License to be Posted

The license issued to the licensee hereunder by the Administrator shall be posted in a conspicuous place if the licensee is using a vehicle or building in his business and otherwise must be kept by the person and exhibited at any time upon request.

Section 8-2-7 Unlawful Acts

It shall be unlawful for any peddler, solicitor, canvasser, or transient merchant in the course of business to ring the doorbell or knock at any building where on a sign bearing the words "No Peddlers or Solicitors" or similar wording is exposed to public view.

Section 8-2-8 Duty of Police Officers to Enforce

It shall be the duty of any police officer of the Town to enforce this Article. The Chief of Police shall report to the Administrator all violations of this Article.

Section 8-2-9 Violations – Penalty

Any person found guilty of violating any of the provisions of this Article 8-2 shall be guilty of a civil violation punishable as provided in Section 1-5-1(A). Each day a violation continues shall be a separate offense.

Article 8-3 SPECIAL EVENT PERMITS

Section 8-3-1 Permit Required; Definition
Section 8-3-2 Time and Location Restriction
Section 8-3-3 Application Requirements
Section 8-3-4 Special Event Plot Plan
Section 8-3-5 Permit Approval or Denial
Section 8-3-6 Standard Conditions of Approval
Section 8-3-7 Appeal

Section 8-3-1 Permit Required; Definition

It is unlawful for any person to conduct or sponsor a special event within the Town limits without first obtaining a special event permit pursuant to the requirements of this Article. Special event means, public events that utilize or affect public streets or property that are likely to, or may, have an impact on surrounding properties, law enforcement, traffic, Town streets, Town staffing, public safety or daily municipal operations, including but not limited to, rodeos, parades, marches, circuses and carnivals, sports events, music festivals, pageants street closures, restricted or special parking events, shows, show promoters and show vendors, temporary swap meets, art shows, festivals, religious revivals, political rallies, vehicle shows and displays, reenactments, entertainments, public assemblies, demonstrations, public spectator attractions, large organized group use of recreational or other Town facilities, together with all other similar temporary activities. A special event may take place inside a temporary or permanent structure or outside. Special events, for purposes of this Article, do not include the routine reservation of Town buildings or facilities which have only minimal impact on surrounding properties, streets, law enforcement, Town staffing, public safety or daily municipal operations, nor to events sponsored by governmental entity acting within its jurisdiction.

Section 8-3-2 Time and Location Restriction

A special event permit shall be limited to the specific time and location restrictions shown on the permit.

Section 8-3-3 Application Requirements

A. Any person applying for a special event permit shall submit an application to the Town Manager not less than thirty (30) days prior to the special event unless such time period is waived by the Town Manager.

B. Applications for special event permits shall be made on forms approved by the Council and in the manner prescribed by the Town Manager.

   1. The special event permit application shall include the following information and such other information as the Town Manager deems reasonably necessary:

   2. Name of person, business or organization together with a brief description of the nature and type of business entity. If the business or organization is a corporation or limited liability company, the State where formed and the statutory agent's name and address. Proof of nonprofit status is required where claimed.

3. Name, date of birth of the applicant and relationship to the person, business or organization.

4. Complete street and mailing address and contact phone number of such person, business or organization. List of officers/owners/managers of the business or organization, together with their addresses and phone numbers where requested by the Town Manager.

5. A brief description of the nature and type of the event including the date, time location and whether alcohol will be sold or consumed.

6. A list of any Town services being requested and the type of payment arrangements proposed. The Town Manager may waive fees for special events for schools and non-profit organizations beneficial to the Town for good cause shown.

7. A copy of the Arizona Transaction Privilege Tax documentation (if applicable).

8. If the business specified in this Article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Pinal County Health Department, as provided for in Arizona Revised Statutes, Title 36, Chapter 1, Article 2 and applicable Pinal County ordinances, as amended. In addition, where applicable, proof of any license or permit required by any other governmental entity with jurisdiction over the premises and/or activities.

Section 8-3-4 <u>Special Event Plot Plan</u>

In addition to the requirements in Section 8-3-3, applicants for a special event permit shall be required to submit four (4) copies of a plot plan, indicating the following:

1. Exact site location and layout of the event.

2. Location and number of booth spaces, stalls or vending areas.

3. Location of temporary structures and temporary utilities necessary for operation.

4. Location and provision of toilets, trash receptacles, and other sanitary services.

5. Ingress and egress.

6. Fire and emergency vehicle access.

7. Parking areas.

8. Signage.

9. Lighting.

Describe the security and traffic control measures to be taken for the special event.

Section 8-3-5 Permit Approval or Denial

Upon receipt of an application, the Town Manager, shall conduct the necessary investigation for the protection of public health, safety, welfare and overall public good. The permit application and the required plot plan shall be referred to the Fire, Police and Public Works Departments, and any other Department as determined by the Manager. The Police Department may conduct a criminal history check on the applicant(s) for all special events. After receipt of the information required by this Section, Sections 8-3-3 and 8-3-4, the Manager shall conduct a staff coordinating meeting with the Police, Fire, Public Works and any other Department or personnel deemed by the Manager necessary or desirable, in order to determine whether to issue or deny the permit together with any conditions of approval. The Manager may, but shall not be so required, invite the applicant to attend the staff coordinating committee meeting. The decision on the permit together with any conditions of approval shall be reported to the applicant in writing as soon as practicable. If the decision is to deny the permit, the reason(s) for said denial shall be set forth in writing. The decision shall also be reported to the Council at the same time. The decision of the Town Manager shall be final except as provided in Section 8-3-7. The Town Clerk shall keep a record of all permits issued or denied for a period of one year after the date of the application.

Section 8-3-6 Standard Conditions of Approval

Standard conditions of approval for special events shall include compliance with applicable law, payment of applicable fees, assumption of responsibility for injuries and damages arising out of the special event, indemnification of the Town, and the provision of a certificate of insurance in the amount as approved from time to time by the Council, and where deemed appropriate by the Town Manager, the notification of affected property owners. These standard conditions shall not be construed to prohibit additional conditions necessary for the public health, safety or welfare. Where security is necessary or required, Town of Superior Police shall be utilized for same, unless adequate security cannot be provided by Superior Police Department.

Section 8-3-7 Appeal

The decision of the Town Manager may be appealed to the Council within five (5) working days by an aggrieved party by filing with the Town Clerk the basis for such appeal inwriting. The appeal shall be scheduled for the next available Council meeting. The applicant shall have the burden of persuasion on the appeal. The decision of the Council may be appealed within thirty (30) days of the date of the decision of the Council. to the Pinal County Superior Court in accordance with Arizona law.

Article 8-4 PUBLIC USE OFSIDEWALKS AND STREETS

Section 8-4-1 Interference with Public Use of Sidewalks and Streets
Section 8-4-2 Violations - Penalty

Section 8-4-1 Interference with Public Use of Sidewalks and Streets

A. Each owner, manager or operator of a business authorized pursuant to this Chapter shall maintain the operations, activities and sales of said business so as to not to interfere with pedestrian use of the sidewalks or the public use of the streets. No personal property, including merchandise offered for sale or displayed by the business for any purpose shall be placed or remain upon the sidewalks or streets, except as provided herein.

B. If the owner, manager or operator of a business desires to place or display any personal property of the business operation, including merchandise being displayed for sale, such as a sidewalk sale upon the sidewalks of the Town, said owner, manager or operator shall first make application, in writing, with the Administrator, for authorization (permit) for said placement or display. As part of the written application, the owner, manager or operator shall provide a plan of operation which will insure compliance with all provisions of the Americans with Disabilities Act and avoid interference with use of any sidewalk and, in all cases, no application shall be approved except where compliance with the following requirements are met:

1. No personal property, including merchandise offered for sale of the business shall be placed or remain upon a sidewalk between the hours of 10:00 p.m. and 8:00 a.m.

2. No personal property, including merchandise offered for sale, shall be placed or displayed upon a sidewalk a distance of more than forty-two (42) inches from the outside wall or window of the business and, at all times, there shall remain an open passageway for use by pedestrians having a width of not less than forty (40) inches, as measured from the inside edge of the curb.

3. If any property, merchandise or wares of the business, including tables and merchandise offered for sale, shall remain upon the sidewalk between the hours of 10:00 p.m. and 8:00 a.m., the Administrator, including Town Police, are authorized to seize and remove said personal property. The owner, manager or operator shall be notified the next business day and shall be solely responsible for the full cost incurred for said removal, including the hourly rate, with benefits, of the person or persons required to remove said property.

4. The approval or rejection of the application of the Administrator shall be in writing within ten (10) business days of receipt of the application and, if approved, shall set a term of not more than ninety (90) days for the permit and clearly State any restrictions in addition to those set forth in this Article.

C. Upon special application, the Mayor and Council may, but shall not be so required, authorize a license agreement for the use of a sidewalk, street or alley to be utilized for a commercial purpose on a case-by-case basis provided that compliance with applicable laws for the protection of the public health safety and welfare are met. The authorization for such use shall

be in the form of a written license agreement including all specific and applicable details prior to such use.

D. It shall be unlawful for any business, owner, manager or operator, to conduct any sidewalk or street sale or to allow any personal property of the business to be placed, remain or displayed upon the sidewalks and/or streets of the Town without a permit or license agreement as provided in this Section.

E. In addition to any other penalties authorized by this Section, the Administrator shall revoke the business license of any owner, Manager or operator of a business found to be in violation of this Section on three (3) or more occasions. Upon revocation, no new license may be issued to said owner, operator or Manager to conduct any business within the Town for a period of twelve (12) months.

Section 8-4-2 <u>Violation, Penalty</u>

Any person convicted of a violation of any provision of this Article 8-4 shall be guilty of a civil violation punishable as provided in Section 1-5-1(A). Each day a violation continues shall be considered a separate offense.

Article 8-5 LICENSING OF SEXUALLY ORIENTED BUSINESSES

Section 8-5-1 Purpose and Intent
Section 8-5-2 Definitions
Section 8-5-3 License requirements
Section 8-5-4 Employee license
Section 8-5-5 Issuance and Renewal of License
Section 8-5-6. Fees
Section 8-5-7 Inspection
Section 8-5-8 Expiration of License
Section 8-5-9 Suspension
Section 8-5-10 Revocation
Section 8-5-11 Transfer of license
Section 8-5-12 Injunction

Section 8-5-1 Purpose and Intent

It is the purpose and intent of this Article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town of Superior and to establish reasonable and uniform regulations to reduce or eliminate the adverse secondary effects from such sexually oriented businesses. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the Article to condone or legitimize the distribution of obscene material.

Section 8-5-2 Definitions

In this Article, unless the context otherwise requires:

A. Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated as employee, independent contractor, and agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

B. Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

C. Person means an individual, corporation, association, or other legal entity.

D. Specified criminal activity means any of the following offenses:

1. Prostitution or promotion of prostitution, dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; sexual abuse; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal Code of other States and countries;

2. for which:

    a. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date; if the conviction is a misdemeanor offense; or

    b. less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

    c. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.

3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or person residing with the applicant.

E. Transfer of ownership or control of a sexually oriented business means and includes any of the following:

1. the sale, lease, or sublease of the business;

2. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

3. the establishment of a trust, gift, or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

F. Definitions included. All definitions listed in the Zoning Code relating to sexually oriented businesses are applicable to this Article.

Section 8-5-3 License requirements

A. It is unlawful:

1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Town pursuant to this Article.

2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Town pursuant to this Article.

3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Article.

B. An application for a license must be made on a form provided by the Town.

C. All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Town to determine whether the applicant meets the qualifications established in this Article.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under this Article and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

   a. an individual, the individual shall State his/her legal name and any aliases and submit proof that he/she is 18 years of age;

   b. a partnership, the partnership shall State its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

   c. a corporation, the corporation shall State its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its State of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

   d. a limited liability company, the company shall State its complete name, and the names of all members who own a twenty-percent or greater interest in the capital or profits of the limited liability company. If the management of the limited liability company is vested in a Manager or Managers, the company shall also State the name of each person who is a Manager of the limited liability company.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state the sexually oriented business's fictitious name and submit the required registration documents.

3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Article, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

4. Whether the applicant, or a person residing with the applicant, has had a previous license under this Article or other similar sexually oriented business ordinances from another Town or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

5. Whether the applicant or a person residing with the applicant holds any other licenses under this Article or other similar sexually oriented business ordinance from another Town or county and, if so, the names and locations of such other licensed businesses.

6. The single classification of license for which the applicant is filing.

7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

8. The applicant's mailing address and residential address.

9. A recent photograph of the applicant(s).

10. The applicant's Driver's License Number, Social Security Number, and/or his/her State or federally issued Tax Identification Number.

11. A sketch or diagram showing the configuration of the premises, including a Statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 200 feet of the property to be certified and also depicting the property lines of any established use listed in Section 68(D)(2) of the Zoning Code Article pertaining to sexually oriented business within one thousand (1,000) feet of the property to be certified. For purposes of this paragraph, a use shall be considered existing or established if it is in existence at the time an application is submitted.

Section 8-5-4 <u>Employee License</u>

A. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Town the following information:

1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;

2. Age, date, and place of birth;

3. Height, weight, hair and eye color;

4. Present residence address and telephone number;

5. Present business address and telephone number;

6. Date, issuing State and number of driver's permit or other identification card information;

7. Social Security number; and

8. Proof that the individual is at least eighteen (18) years of age.

B. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

2. A Statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, Town, State, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, State the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

3. A Statement whether the applicant has been convicted of a specified criminal activity as defined in this Article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

C. Upon the filing of an application for a sexually oriented business employee license, the Town shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Town departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the Town shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. The applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form;

2. The applicant is under the age of eighteen (18) years;

3. The applicant has been convicted of a "specified criminal activity" as defined in this Article;

4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or State law, statute, rule or regulation, or prohibited by a particular provision of this Article;

5. The applicant has been denied a license by the Town to operate a sexually oriented business within the preceding 12 months or has had a sexually oriented business operating license revoked by the Town; or

6. The applicant has had a sexually oriented business employee license revoked by the Town within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this Section shall be subject to appeal as set forth herein.

Section 8-5-5 <u>Issuance and Renewal of License</u>

A. Within 30 days after receipt of a completed sexually oriented business application, the Town shall approve or deny the issuance of a license to an applicant. The Town shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

   1. An applicant is under eighteen (18) years of age.

   2. An applicant or a person with whom applicant is residing is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

   3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

   4. An applicant or a person with whom the applicant is residing has been denied a license by the Town to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

   5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this Article.

6. The premises to be used for the sexually oriented business have not been approved by the Health Department, Fire Department, and the Building Official as being in compliance with applicable laws and ordinances.

7. The license fee required by this Article has not been paid.

8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Article.

B. The license, if granted shall State on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

C. The Health Department, Fire Department, and the Building Official shall complete their certifications that the premises are in compliance or not in compliance with the requirements of this Article within twenty (20) days of receipt of the application by the Town.

D. A sexually oriented business license shall issue for only one classification set forth in Sec. 16-1-19. Sexually oriented business regulation.

E. A license granted pursuant to this Article shall be subject to annual renewal upon the written application of the applicant and a finding by the Town that the applicant has not been convicted of any specified criminal activity as defined in this Article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth herein.

Section 8-5-6 <u>Fees</u>

A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee as determined by the Council from time to time, however, in no event shall such fee be less than $500 without amendment hereof.

B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Town an annual non-refundable license fee in the amount provided by Resolution of the Council from time to time of prior to license issuance or renewal.

C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation, and license fee as determined by resolution of the Council from time to time, but in no event shall such fee be less than $250 without amendment hereof.

Section 8-5-7 <u>Inspection</u>

A. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other Town departments or agencies to

inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

B. A person who operates a sexually oriented business or his agent or employee commits a civil violation punishable as provided in Section 1-5-1(A) of this Code, if he refuses to permit such lawful inspection of the premises at any time it is open for business.

Section 8-5-8 <u>Expiration of License</u>

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

B. When the Town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

Section 8-5-9 <u>Suspension</u>

A. The Town shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has committed any of the following:

1. violated or is not in compliance with any provision of this Article;

2. refused to allow an inspection of the sexually oriented business premises as authorized by this Article;

3. has violated applicable provisions of the Superior Town Code.

4. been on the premises of the sexually-oriented business while in an intoxicated condition or has committed disorderly conduct as defined in A.R.S. §13-2904, as amended, while on the premises of the business, or knowingly has permitted an employee to be on the business premises while the employee was in an intoxicated condition;

5. knowingly permitted gambling by any person on the premises of the sexually oriented business.

Section 8-5-10 <u>Revocation</u>

A. The Town shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.

B. The Town shall revoke a license if it determines any of the following:

1. a licensee gave false or misleading information in the material submitted during the application process;

2. a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

3. a licensee has knowingly allowed prostitution on the premises;

4. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

5. except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;

6. a licensee is delinquent in payment to the Town, County, or State for any taxes or fees past due; or

7. on two (2) or more occasions within a twelve (12) month period, a person or persons while in or on the licensed premises committed an offense listed herein for which a conviction has been obtained, and the person or persons were Manager or employees of the sexually-oriented business at the time the offenses were committed. The license denial, suspension, or revocation shall be stayed automatically pending judicial review of such administrative action.

C. When the Town revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

Section 8-5-11 <u>Transfer of License</u>

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Section 8-5-12 <u>Injunction</u>

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of any part of this Article is subject to suit for injunction as well as prosecution for a civil violation punishable as provided in Section 1-5-1(A) of this Code. Each day a sexually oriented business operates in violation of any part of this Article is a separate offense or violation.

ARTICLE 8-6 LICENSING OF MEDICAL MARIJUANA-RELATED FACILITIES

Section 8-6-1 Purpose and Intent
Section 8-6-2 Definitions
Section 8-6-3 License Requirements
Section 8-6-4 Issuance and Renewal of License
Section 8-6-5 Fees
Section 8-6-6 Inspection
Section 8-6-7 Expiration of License
Section 8-6-8 Suspension
Section 8-6-9 Revocation
Section 8-6-10 Transfer of License
Section 8-6-11 Injunction
Section 8-6-12 Severability

Section 8-6-1 Purpose and Intent

It is the purpose and intent of this article to regulate medical marijuana-related facilities in order to promote the health, safety, and general welfare of the citizens of the Town of Superior and to establish reasonable and uniform business regulations.

Section 8-6-2 Definitions

In this article, unless the context otherwise requires:

1. Employee means a person who performs any service on the premises of a medical marijuana related facility on a full-time, part-time, volunteer or contract basis, whether or not the person is denominated as employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employees shall be registered medical marijuana dispensary agents as defined by Arizona Revised Statutes prior to the performance of the above referenced services. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of non-medical marijuana related goods to the premises.

2. Licensee means a person in whose name a license to operate a medical marijuana related facility has been issued, as well as the individual listed as an applicant on the application for a license. A Licensee shall be a registered medical marijuana agent as defined by Arizona Revised Statutes prior to the opening of the medical marijuana related facility for operation.

3. Medical marijuana means all parts of the genus cannabis whether growing or not, and the seed of such plants, that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

4. A medical marijuana cultivation facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana which may be physically separate or off-site from a medical marijuana dispensary or a medical marijuana manufacturing facility. Medical marijuana cultivation means the process by which a person grows a marijuana plant.

5. Medical marijuana dispensary means a non-profit entity as defined in Arizona Revised Statutes, that, for purposes of these regulations, sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

6. Medical marijuana-related facility includes any building, structure or premises used for the cultivation, storage, or dispersal of medical marijuana. A medical marijuana-related facility shall include a medical marijuana cultivation facility, a medical marijuana dispensary and a medical marijuana manufacturing facility.

7. Medical marijuana manufacturing facility means a facility that produces medical marijuana by the means of cooking, blending, or incorporation into consumable goods.

8. Medical marijuana qualifying patient means a person who has been diagnosed by a qualifying medical practitioner as having a debilitating medical condition as defined in Arizona Revised Statutes, Title 36, Chapter 28.1.

9. Person means an individual, proprietorship, corporation, association or other legal entity.

10. Specified criminal activity means any of the offenses listed in Arizona Revised Statutes, Title 36, Chapter 28.1 as an "excluded felony offense."

11. Transfer of ownership or control of a medical marijuana-related facility means and includes any of the following:

    a. the sale, lease, or sublease of the business;

    b. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

    c. the establishment of a trust, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

12. Definitions included. All definitions listed in the Zoning Code, and Arizona Revised Statues relating to medical marijuana-related facilities are applicable to this article.

Section 8-6-3 <u>License Requirements</u>

1. It is unlawful:

    a. For any person to operate a medical marijuana-related facility without a valid medical marijuana-related facility business license issued by the Town pursuant to this article.

    b. For any person who operates a medical marijuana-related facility to employ a person to work for the medical marijuana-related facility who is not registered as a medical marijuana agent as that term is defined by the Arizona Revised Statutes.

2. An application for a license must be made on a form or through a procedure provided by the Town.

3. All applicants must be qualified according to the provisions of this article prior to issuance of a medical marijuana-related facility business license. The application may request and the applicant shall provide such information and proof that the applicant meets the qualifications established by this article and state law.

4. If a person who wishes to operate a medical marijuana-related facility is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a medical marijuana-related facility is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under this article and each applicant shall be considered a licensee if a license is granted.

5. The completed application for a medical marijuana-related facility license shall contain the following information and shall be accompanied by the following documents:

    a. If the applicant is:

        1. an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is twenty-one (21) years of age;

        2. a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

        3. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the law of the state of incorporation and authorized to do business in the State of Arizona., the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

        4. a limited liability company, the company shall state it's complete name, and the names of all members who own a twenty (20) percent or greater interest in the capital or profits of the limited liability company. If the management of the limited liability company is vested in a manager or managers, the company shall also state the name of each person who is a manager of the limited liability company.

    b. If the applicant intends to operate the medical marijuana-related facility under a name other than that of the applicant, he or she must state the medical marijuana-related facility's name and submit the required registration documents.

    c. Whether the applicant has had a previous license under this article or other similar medical marijuana-related facility's ordinances from another Town or county denied, suspended or revoked in the State of Arizona, including the name and location of the medical marijuana-related facility for which the permit was denied, suspended or

revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this article whose license has previously been denied, suspended or revoked in the State of Arizona, including the name and location of the medical marijuana-related facility for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

d. Whether the applicant holds any other licenses under this article or other similar medical marijuana-related facility ordinance from another Town or county and, if so, the names and locations of such other licensed businesses.

e. The classification of medical marijuana related facility license for which the applicant is filing.

f. The location of the proposed medical marijuana-related facility, including a legal description of the property, street address, and telephone number(s), if any.

g. The applicant's mailing address and residential address.

h. A recent photograph of the applicant(s).

i. The applicant's driver's license number, date of birth, and/or his/her state or federally issued tax identification number, where applicable.

j. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram shall be professionally prepared and must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

k. A current certificate and straight-line drawing prepared by a registered land surveyor depicting the property lines and the structures.

l. A copy of all documentation provided to the state as a requirement for state licensing.

m. Evidence that all conditions of approval as required by a conditional use permit and/or license agreement issued by the Town of Superior have been met prior to the opening of the facility to the public or any operations..

n. A copy of the Arizona Transaction Privilege Tax (TPT) identification Number, where applicable.

o. Employees, volunteers and officers of the applicant shall undergo a thorough background check to include but not be limited to a driving record, credit check, and criminal record check. This background check will be conducted by the Chief of Police, or designee. Criminal convictions tending to show theft, deceit, violence or illegal drug activity may be grounds to deny the applicant the opportunity to participate in the Medical Marijuana industry within the Town of Superior.

Section 8-6-4 <u>Issuance and Renewal of License</u>

1. Within thirty (30) days after receipt of a completed medical marijuana related facility business application, the Town shall approve or deny the issuance of a license to an applicant. The Town shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings are true:

    a. An applicant is under twenty-one (21) years of age.

    b. An applicant is overdue in payment to the Town of taxes, fees, license fees, fines or penalties assessed against or imposed upon him/her in relation to any business.

    c. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

    d. An applicant has been denied a license by the Town to operate a medical marijuana-related facility within the preceding twelve (12) months or whose license to operate a medical marijuana-related facility has been revoked within the preceding twelve (12) months.

    e. An applicant has been convicted of specified criminal activity.

    f. The premises to be used for the medical marijuana-related facility have not been approved by the health department, fire department, police department and building official as being in compliance with applicable laws and ordinances.

    g. The license fee required by this article has not been paid.

    h. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.

2. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the medical marijuana related facility and the classification for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the medical marijuana-related facility so that they may be easily read at any time.

3. The health department, fire department, police department and the building official shall inspect the proposed business location and complete their certifications that the premises is in compliance or not in compliance with the requirements of this article within twenty (20) days of receipt of the application by the Town, and periodically thereafter.

4. A medical marijuana related facility license may be issued for more than one (1) medical marijuana related facility classification as set forth in Section 8-6-2 (6) per address.
5. A license granted pursuant to this article shall be subject to annual renewal upon the written application of the applicant and a finding by the Town that the applicant has not been convicted of any specified criminal activity as defined in this article or committed any act in violation of

this article during the existence of the previous license, that the building in which the facility is located meets all building codes current at the time and that all alarm, security and exiting requirements are met. Failure to meet any criteria required by state or local law shall be grounds to deny the initial license application or any license renewal. The renewal of the license shall be subject to the payment of the fee as set forth herein.

Section 8-6-5 <u>Fees</u>

1. Every application for a medical marijuana-related facility (whether for a newlicense or for renewal of an existing license) shall be accompanied by an application and inspection fee as adopted by the Town Council.

2. In addition to the application and investigation fee required above, every medical marijuana-related facility that is granted a license (new or renewal) shall pay to the Town a non-refundable license fee as adopted by the Town Council.

Section 8-6-6 <u>Inspection</u>

1. An applicant or licensee shall permit representatives of the police department, health department, fire department, zoning department, or other Town departments or agencies to inspect the premises of a medical marijuana-related facility for the purpose of insuring compliance with the law at any time it is occupied or open for business.

2. A person who operates a medical marijuana-related facility or his agent or employee commits a civil violation punishable as provided in section 1-5-1(a) of this Code, if he or she refuses to permit such lawful inspection of the premises at any time it is open for business. Such refusal shall be grounds for suspension and revocation of a license hereunder.

Section 8-6-7 <u>Expiration of License</u>

1. Each license shall expire at the end of each calendar year, unless otherwise provided by the Town Council, and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date.

2. If the Town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

Section 8-6-8 <u>Suspension</u>

1. The Town shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has committed any of the following:

    a. violated or is not in compliance with any provision of this Article;

    b. refused to allow an inspection of the medical marijuana-related facility as authorized by this article;

c. has violated applicable provisions of the Superior Town Code.

d. has violated applicable provisions of the Arizona Revised Statutes.

e. has provided products unfit for human consumption or in any manner by consumer fraud.

f. has dispensed marijuana to unauthorized recipients, including but not limited to minors.

g. the Licensee is in violation of the Arizona Medical Marijuana Act or Regulations adopted pursuant thereto by the Arizona Department of Health Services.

h. The Licensee has failed to obtain or is in violation of a medical marijuana related facility license agreement, conditional use permit, or this Code.

Section 8-6-9 <u>Revocation</u>

1. The Town shall revoke a license if a cause of suspension occurs and the license has previously been suspended within the preceding twelve (12) months.

2. The Town shall revoke a license if it determines any of the following:

    a. a licensee gave false or misleading information in the material submitted during the application process;

    b. a licensee has knowingly allowed possession, use or sale of illegal controlled substances on the premises;

    c. a licensee knowingly operated the medical marijuana-related facility during a period of time when the licensee's license was suspended;

    d. a licensee is delinquent in payment to the Town, county or state for any taxes or fees past due; or

    e. on two (2) or more occasions within a twelve (12) month period, a person or persons while in or on the licensed premises committed an offense listed herein for which a conviction has been obtained, and the person or persons were managers or employees of the medical marijuana-related facility at the time the offenses were committed.

    f. failure to immediately report to law enforcement any criminal activity in or on the premises of a cultivation or dispensary site.

3. If the Town revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a medical marijuana-related facility license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

4. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

Section 8-6-10 Transfer of License

A licensee shall not transfer his/her license to another, nor shall a licensee operate a medical marijuana-related facility under the authority of a license at any place other than the address designated in the application.

Section 8-6-11 Injunction

A person who operates or causes to be operated a medical marijuana-related facility without a valid license or in violation of any part of this article is subject to suit for injunction as well as prosecution for a civil violation punishable as provided in section 1-5-1(a) of this Code. Each day a medical marijuana-related facility operates in violation of any part of this article is a separate offense or violation.

Section 8-6-12 Severability

If any part of this section is found to be invalid or unconstitutional by any court, such action shall not apply to this section as a whole, but only to that specific part, and it is intended and declared that all parts of said section not expressly declared to be invalid or unconstitutional shall continue in full force and effect notwithstanding so much thereof as may be declared to be invalid or unconstitutional.

Article 8-7 RECREATIONAL MARIJUANA

Section 8-7-1 Purpose
Section 8-7-2 Definitions
Section 8-7-3 Marijuana Prohibited on Public Property
Section 8-7-4 Marijuana Establishments Permitted; Nonresidential
Section 8-7-5 Marijuana Testing Facility Permitted; Nonresidential
Section 8-7-6 Marijuana Establishments Permitted; Residential
Section 8-7-7 Retail Sales from Marijuana and Marijuana Products
Section 8-7-8 Fees
Section 8-7-9 Violations
Section 8-7-10 Enforcement; Penalties

Section 8-7-1 Purpose

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the Town enacts reasonable regulations and requires compliance with zoning laws for the retail sale, cultivation, and manufacturing of marijuana. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana in violation of any applicable law.

Section 8-7-2 Definitions

The below words and phrases, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. 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.

A. "*Chemical Extraction*" means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.

B. "*Chemical Synthesis*" means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.

C. "*Consume,*" *"Consuming,"* and *"Consumption"* mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

D. "*Consumer"* means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.

E. "*Cultivate*" and "*Cultivation*" mean to propagate, breed, grow, prepare and package marijuana.

F. "*Deliver*" and "*Delivery*" mean the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the location where the marijuana was cultivated, manufactured, or processed.

G. "*Department*" means the State of Arizona Department of Health Services or its successor agency.

H. "*Dual Licensee*" means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.

I. "*Enclosed Area*" means a building, greenhouse, or other structure that has:
1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
2. Is secure against unauthorized entry;
3. Has a foundation, slab or equivalent base to which the floor is securely attached; and
4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors.

J. "*Extraction*" means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.

K. "*Manufacture*" and "*Manufacturing*" mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

L. "*Marijuana"*
1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
2. Includes cannabis as defined in A.R.S. § 13-3401.
3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink or other products.

M. "*Marijuana Concentrate*:"
1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

N. "*Marijuana Establishment*" means an entity licensed by the Department to operate all of the following:
1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana and marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

O. "*Marijuana Products*" means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

P. "*Marijuana Testing Facility*" means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

Q. "*Nonprofit Medical Marijuana Dispensary*" means a non-profit entity as defined in A.R.S. § 36-2801(12).

R. "*Open Space*" means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

S. "*Person*" means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

T. "*Process*" *and "Processing"* means to harvest, dry, cure, trim or separate parts of the marijuana plant.

U. "*Public Place*" has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.

V. "*Smoke*" means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

Section 8-7-3 <u>Marijuana Prohibited on Public Property</u>

A. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled, or operated by the Town.

B. It is unlawful for an individual to smoke marijuana in a public place or open space in the Town.

Section 8-7-4 <u>Marijuana Establishments Permitted; Nonresidential</u>

Marijuana establishments shall be regulated as outlined in Section 13-13 of the Superior Town Zoning Code.

Section 8-7-5 Marijuana Testing Facility Permitted; Nonresidential

Marijuana testing facilities shall be permitted shall be regulated as outlined in Section 13-13 of the Superior Town Zoning Code.

Section 8-7-6 Marijuana Permitted; Residential

A. To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in Town is subject to the following conditions and limitation:

1. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.

2. It shall be unlawful for two or more individuals who are at least twenty-one (21) year of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.

3. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the Town limits.

4. Shall be limited to a closet, room, greenhouse or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.

5. Shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.

6. Shall maintain kitchen, bathrooms, and primary bedroom(s) for their intended use and shall not be used primarily for residential marijuana cultivation.

7. Shall not emit dust, fumes, vapors, or odors into the environment from the facility and ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of Town.

Section 8-7-7 Retail Sales from Marijuana and Marijuana Products

To the fullest extent allowable by law, the sale of marijuana and marijuana products is authorized within the Town and is tangible personal property defined in A.R.S. § 42-5001 and subject to the transaction privilege tax in the retail classification and use tax.

Section 8-7-8 Fees

A. The fee for the permit shall be established by Resolution of Town Council.

Section 8-7-9 <u>Violations</u>

A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.

B. It is a violation of this article for any person to provide false information on any permit application.

C. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

Section 8-7-10 <u>Enforcement; Penalties</u>

A. A permit issued under this Article permit may be revoked by the Town for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the Hearing Officer Established under Section § 1.7 of the Town of Superior Zoning Ordinance.

B. Violations of this article are in addition to any other violation enumerated within the Town ordinances or the Town Code and in no way limits the penalties, actions or abatement procedures which may be taken by the Town for any violation of this article, which is also a violation of any other ordinance or Code provision of the Town or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

C. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the Town civil hearing process set forth in Article 1-5 and 6-1 of the Superior Town Code.

CHAPTER 8A - TOWN TAX CODE

Article 8A-1 TOWN TAX CODE

Section 8A-1-1 Town Tax Code
Section 8A-1-2 Violations - Penalty

Section 8A-1-1 Town Tax Code

That certain document known as "The Tax Code of the Town of Superior, Arizona", three (3) copies of which are on file in the office of the Town Clerk, are hereby referred to, adopted and made a part hereof as if fully set out in this chapter and henceforth shall be known as and enforced as "The Tax Code of the Town of Superior" The Tax Code of the Town of Superior shall be the Model Tax Code, together with all of the options and amendments as adopted by the Town Council, from time to time.

Section 8A-1-2 Violations – Penalty

Any person convicted of a violation of any provisions of the "Tax Code of the Town of Superior" (Chapter 8A) shall be guilty of a civil violation punishable as provided in section 1-5-1(A) of this code.

CHAPTER 9 - PUBLIC WORKS

Article 9-1 ADMINISTRATION

Section 9-1-1 Management of Public Works
Section 9-1-2 Receipts and Deposits
Section 9-1-3 Violations - Penalty

Section 9-1-1 Management of Public Works

The Town of Superior Public Works Department, hereinafter "Department", shall have charge and control over the management and maintenance of the Town streets and street lights, street signs, sidewalks, public buildings, parks, pools and grounds, recreation, special events, cemetery, sewer system, solid waste services, transfer station, weeds, trash, shop, equipment, tools and the U.S. 60 rest area, by contract or otherwise, or cause to be performed, all acts that may be necessary for the prudent, efficient, and economic management and protection of said systems and properties. The Public Works Director shall be appointed by the Town Manager.

Section 9-1-2 Purchases, Receipts and Deposits

The Town Manager, or designee, shall cause the Department to keep a correct account of all purchases and receipts and deposits.

Section 9-1-3 Violations – Penalty

It shall be a civil violation, punishable as provided in Section 1-5-1(A), to willfully or intentionally violate, or fail to comply with any provision of this Chapter 9. Each day a violation continues shall be deemed to be a separate offense.

Article 9-2 SEWER SERVICE

Section 9-2-1 Application for Sewer Service
Section 9-2-2 Grounds for Rejection of Application
Section 9-2-3 Violation of Application Provisions

Section 9-2-1 Application for Sewer Service

A. Application for the use sewer service shall be made in person, at the Town Hall, to the Department by the owner, or tenant, of the property to be benefited, designating the location of the property and stating the purpose for which the service is required. Application shall be made when water service is turned on. The connection fee and deposit as set by Resolution shall be due at this time. The applicant shall provide an official address of the responsible party, the property owner and where bills and notices, as provided in this Chapter, shall be delivered and shall maintain said address up to date, together with such other information as the Department may reasonably require.

B. Each land owner who rents out or allows a third party to occupy a home or a business is required to provide written authorization for the sewer service and shall also be liable for the payment for sewer services supplied to the renter/tenant and any delinquent amount left by the former renter/tenant. The Town will attempt to contact and collect from the former renter/tenant for a 30-day period. The land owner will then be required to pay the delinquent amount and any fees that apply. The owner is not required to pay an additional deposit for reinstating service in their own name. The land owner will be billed a basic service fee for the cost of sewer service at the regular rate plus tax.

C. New tenants, occupants or land owner will not be allowed to start service at the property until any previous balance of the land owner or former renter/tenant or occupant is paid to the Town. Land owners who rent to tenants or allows a third party to occupy the home or business shall be required to sign an agreement with the Town acknowledging they are both responsible for payment for sewer services and any delinquent amount left by the former renter/tenant or occupant as a condition of the Town providing sewer service to the land owner's premises.

D. Sewer service outside of the corporate limits of the Town of Superior, and developments of any kind wherever located requiring pretreatment of sewage pursuant to Arizona Department of Environmental Quality Regulations or which may use a maximum flow of 15,000 (Fifteen Thousand) or more gallons of sewer per day or 15 lots, whichever is less, shall first require an application and written agreement with the Town that states, at a minimum, that the users thereof and their assignees agree to comply with the terms and conditions of this Chapter, pay all applicable fees, construct any proposed public facilities in accordance with Town standards and requirements, grant any necessary and appropriate easements, agree to annexation into the Town upon request of the Town, together with such other terms as the Town may then require, prior to the earliest of either construction and/or connection, as may be applicable. Consent to enforcement in the Town Magistrate Court shall also be required. Use or continued use of sewer services shall be deemed to be implied consent to the terms hereof.

Section 9-2-2 Grounds for Rejection of Application

The Department may reject any application for service for any good and sufficient reason, including but not limited to, the following: service not available under a standard rate; service which involves excessive service expense; service which may affect the service to other consumers; or when the applicant is delinquent in payment of bills incurred for service
previously contracted for by him or her at any location within the Town or serviced by the Town.

Section 9-2-3 Violation of Application Provisions

For violation of any of the provisions relating to application for, or continuation of, service, the Town may, at the expiration of thirty (30) days after mailing written notice to the last known address of the consumer, at its option, discontinue service. Before the service is reinstalled, the consumer shall first pay to the Town a reinstallation charge and deposit as set by resolution, being not less than the actual cost thereof.

Article 9-3 DISCONTINUANCE OF SERVICE

Section 9-3-1 Notice Required
Section 9-3-2 Service May Be Discontinued Under Certain Conditions

Section 9-3-1 Notice Required

Any person who desires to discontinue the use of sewer service shall file written notice with the Department. Responsibility for cost of sewer service extends to the time of actual termination of service by the Department or to the time specified for departure, whichever last occurs.

Section 9-3-2 Sewer Service May Be Discontinued

The Town may inspect any premises within the Town and discontinue service when there are reasonable grounds to believe it necessary for the following reasons:

A. To prevent fraud or abuse.

B. Failure of the consumer to comply with any regulation of the Department including failure to pay billings on a timely basis.

C. Emergency repairs.

D. Insufficient supply of water caused by factors outside the control of the Town.

E. Legal process.

F. Direction of public authorities.

G. Local emergency requiring emergency measures.

H. Tampering with the system or equipment by the consumer.

I. To prevent a continuing violation of this Chapter

Article 9-4 RATES AND BILLS

Section 9-4-1 Sewer Rates
Section 9-4-2 Billing
Section 9-4-3 Incorrect Bill Protest
Section 9-4-4 Delinquent Notices and Reconnection
Section 9-4-5 When Deposit Required
Section 9-4-6 Additional Units Fee

Section 9-4-1 Sewer Rates

A. The Council shall establish rates to be charged users of the Town sewer system by Resolution from time to time. The minimum monthly rate shall be charged for any month or part thereof for which service is provided. All rates shall be established in compliance with any applicable state statute.53

B. Billing for sewer may be combined with billing for any other utility services of the Town.

Section 9-4-2 Billing-Delinquent Accounts

Bills shall be due on or before the fifteenth day of the month and shall become delinquent on the sixteenth of the month, and service may be discontinued after thirty (30) days written notice if the delinquent bill remains unpaid. Should any account become delinquent, service may be discontinued to the property which is the subject of said account after notice is served in accordance with this Article. Cause for termination of service pursuant to this provision shall be in addition to cause for termination set forth pursuant to any other provision of this Code. There will be a re-connection fee. The Council shall establish fees for delinquent accounts and re-connection by Resolution from time to time.

Section 9-4-3 Incorrect Bill Protest

Any consumer may present a protest to the Town if he/she believes that he/she may have received an incorrect bill. Such protest shall be presented in person at the Town Hall before such bill becomes delinquent, provided that the consumer may make a protest following payment of his/her bill and his/her payment shall not prejudice his/her protest. A pending protest shall not exempt the consumer from delinquency fees if he/she fails to pay his/her bill on time.

Section 9-4-4 Delinquent Notices and Reconnection

A. Service may be terminated without further notice following thirty (30) days written notice. Service shall not be reinstated to the location until all accrued fees and charges, including penalties, interest and a deposit as determined pursuant to Section 9-4-5, have been paid.

B. Notice of delinquency shall be in the written form as determined by the Department. All notices required by this Article shall be deemed delivered on the date of personal service or five (5) days

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53**Editors' Notes**: Statutory reference – sewer rate procedures, see A.R.S. 9-511.01

after mailing notice by first class mail to the person shown on the records of the Department as the responsible party at the address on the application for service. If different from the responsible party, a courtesy copy of the notice shall be mailed to the owner of the property at the address shown on the records of the Pinal County Assessor. Failure of any person to receive notice deemed served shall not invalidate any action taken pursuant to said notice.

Section 9-4-5 <u>When Deposit Required</u>

A. A deposit equal to five (5) times the minimum monthly sewer shall be required for all accounts where a person other than the owner, as shown on the Pinal County Assessors Records, requests service. Unless otherwise required by this Article, no deposit shall be required if the person applying for service provides proof of ownership of the property to be serviced. Deposits shall be retained by the Town as security for payment of bills. The Town may require a deposit adjustment when rates are increased or decreased.

B. Where services have been discontinued to any property or on account of default in payment of two (2) or more times during any consecutive twelve (12) month period, the Town may require a deposit not to exceed ten (10) times the average monthly billing for sewer service for the highest six (6) month period in the two (2) years preceding the request to continue or reinstate service. The deposit shall remain with the Town and may be returned upon request following one (1) full year of no delinquencies. The deposit may be applied to the consumer account in the next succeeding month.

C. All persons applying for sewer shall make a deposit for each property for which service is requested if same is required by the provisions of this Article. Service may be refused at a new location for nonpayment of services by the Applicant rendered at a previous location served by the Town.

D. The Town may assign delinquent accounts to a collection agency or proceed with any collection process authorized by law. The consumer shall be liable to the Town for any and all costs, collections charges and attorney's fees incurred in any collection action.

Section 9-4-6 <u>Additional Units Fee</u>

A fee shall be assessed for each additional unit, house, trailer, or mobile home utilizing the sewer service to a particular location, whether occupied or unoccupied. Said fee shall be set by resolution of the Council from time to time.

Article 9-5 CONSUMER RESPONSIBILITIES

Section 9-5-1 Consumer Facilities
Section 9-5-2 Consumer Negligence
Section 9-5-3 Right of Way
Section 9-5-4 Installation of Lines
Section 9-5-5 Protection of Town Property
Section 9-5-6 Supplying Sewer to Others Prohibited
Section 9-5-7 Inspections
Section 9-5-8 Shut-Off Valve Installation
Section 9-5-9 Unlawful Acts - Interference and Excavations
Section 9-5-10 Unsanitary Disposal of Excrement Prohibited
Section 9-5-11 Private Sewage System
Section 9-5-12 Tampering with Equipment Prohibited
Section 9-5-13 Permit Required
Section 9-5-14 Application
Section 9-5-15 Inspection and Approval Department
Section 9-5-16 Records to be Kept by Department

Section 9-5-1 Consumer Facilities

Unless otherwise specifically provided in this Chapter, the consumer shall have complete responsibility for the installation and maintenance of adequate sewer lines and facilities on the premises and extending to the sewer main line installed and maintained by the Town. The Town shall not be responsible for the installation, maintenance, inspection, blockage or damage of such facilities or damage caused by any defect in such facilities on the consumer's premises or up to the sewer main line. Such facilities shall be maintained by the consumer in full compliance with any and all regulations of the Town and applicable state statutes.

Section 9-5-2 Consumer Negligence

The consumer/occupant shall be responsible for any damages to the Town sewer system or injury to Town employees caused by the intentional or negligent act of said consumer/occupant, the cost of such shall be added to that consumer's bill, and if such charges are not paid, service may be discontinued. Nothing contained herein shall restrict the Town from pursuing any other lawful remedy for collection of damages caused by a consumer/occupant, including but not limited to a civil violation complaint filed in Magistrate Court punishable as provided in Section 1-5-1 (a).

Section 9-5-3 Right of Way

Each consumer shall provide the Town with such easement and right of way as is necessary to construct or provide service to that consumer and to enforce the provisions of this Chapter. The application for and use of service shall be deemed to grant such rights to the Town as may be necessary to carry out the provisions of this Chapter.

Section 9-5-4 Installation of Lines

The Town may refuse to provide service unless the lines and/or piping are installed on the premises so as to prevent cross-connections or back-flow, any other violation of this Chapter, or any other applicable Building or Health Code.

Section 9-5-5 Protection of Town Property

The consumer shall provide proper protection for Town property placed on his/her premises and shall permit only authorized representatives of the Town to have access to same.

Section 9-5-6 Supplying Sewer to Others Prohibited

No occupant or owner of any building to which sewer services are supplied by the Town will be allowed to supply said services to other persons or families or for use on any other property. The Town reserves the right to shut off the service for violations of this Section.

Section 9-5-7 Inspections

Whenever in the judgment of the Department it is deemed necessary for proper management of the system, the Department may inspect the premises or buildings of any consumer for the purpose of examining the condition of all connections and fixtures, or the manner in which such facilities are used. Consent to such inspections shall be deemed granted by the application for and continued use of the sewer service under this Chapter.

Section 9-5-8 Unlawful Acts - Interference and Excavations

It shall be unlawful for any person:

A. To interfere in any way with the officers of the 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 Department.

C. To fail or neglect to place a street or alley in its original condition, as required by the Department, after said person has dug up or disturbed any portion of said street or alley.

D. Violate any provision of this Chapter.

Section 9-5-9 Unsanitary Disposal of Excrement Prohibited

It shall be unlawful for any person to deposit, or permit to be deposited in an unsanitary manner upon public or private property within the Town or in any area under the jurisdiction of the Town any human or animal excrement or other objectionable waste.

Section 9-5-10 Private Sewage Systems

A. Except as provided in this Chapter it shall be unlawful to construct or maintain within the Town any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

B. Within one (1) year after a public sewer becomes available within two hundred (200) feet of any property served by a septic or private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this Chapter and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material in accordance with applicable law.

Section 9-5-11 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 municipal sewage works.

Section 9-5-12 Permit Required

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining Blue Stake verification and a written permit from the Department.

Section 9-5-13 Application

An owner/occupant who desires connection to Town sewer shall make application for connection with the Department and a receipt for all applicable fees will be issued prior to connection.

Section 9-5-14 Inspection and Approval by Department

No building will be connected to the Town sewer until it has been inspected and approved by the Department.

Section 9-5-15 Records to be Kept by Department

The 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 and occupant of the property, his/her agent or representative.

Article 9-6 USE OF PUBLIC SEWERS

Section 9-6-1 Prohibited Substances
Section 9-6-2 Interceptors Required
Section 9-6-3 Authority of Department
Section 9-6-4 Preliminary Treatment
Section 9-6-5 Manholes
Section 9-6-6 Tests and Analyses
Section 9-6-7 Special Agreements with Industrial or Private Concerns
Section 9-6-8 Violations - Penalty

Section 9-6-1 Prohibited Substances

A. No person shall discharge or cause to be discharged any storm sewer, surface sewer, ground sewer, roof runoff, subsurface drainage, cooling sewer or industrial processes to any sanitary sewer, unless specifically authorized by the Department.

B. Except as provided in this Section no person shall discharge or cause to be discharged any of the following described wastes into any public sewer:

1. Any liquid or vapor having a temperature higher than one hundred fifty (150°) degrees Fahrenheit.

2. Any waste which may contain more than fifty (50) 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 in sewer or other interference with the proper operation of the sewer works.

6. Any wastes having a pH lower than five and one half (5 1/2) or higher than nine (9) or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works.

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

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

9. Any noxious or malodorous gas or substance capable of creating a public nuisance.

Section 9-6-2 <u>Interceptors Required</u>

A. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Department, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, and other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units.

B. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gas tight and watertight and shall be located as to be readily accessible for cleaning and inspection.

C. When required, all grease, oil, and sand interceptors shall be installed and maintained by the owner, at his/her expense, and must be in continuously efficient operation at all times. The owner shall keep written records of all cleaning, repair, calibration and maintenance required under this Subsection. Such records shall be maintained for a period of three (3) years.

D. The Department shall require replacement of any grease, sand or oil interceptor which fails to operate efficiently at the owner's expense.

Section 9-6-3 <u>Authority of Department</u>

The admission into the public sewer of any wastes having any of the following characteristics shall be subject to the review and approval of the Department:

A. A five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight.

B. Containing more than three hundred fifty (350) parts per million by weight of suspended solids.

C. Containing any quantity of substance having characteristics described in Section 9-6-1.

D. Having an average daily flow greater than two (2%) percent of the average daily sewage flow of the Town.

Section 9-6-4 <u>Preliminary Treatment – Definitions</u>

A. <u>Required</u>: Where necessary in the opinion of the Department, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to:

1. Reduce the B.O.D. to three hundred (300) parts per million and the suspended solids to three hundred fifty (350) parts per million by weight.

2. Reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 9-6-3.

3. Control the quantities and rates of discharge of such wastes.

B. Approval: Plans and specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the Department and any state or federal agency having jurisdiction. 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 wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

D. In this Article, unless the context otherwise requires:

1. "B.O.D.", denoting biochemical oxygen demand, means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20°) degrees centigrade expressed in parts per million (P.P.M.) in weight.

2. "PH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Section 9-6-5 Manholes

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

Section 9-6-6 Tests and Analyses

All tests and analyses of the characteristics of wastes to which reference is made in this Article, shall be determined in accordance with "standard methods for examination of water and sewage," and shall be determined at the control manhole provided for in the preceding Section or upon suitable samples taken at such control manhole.

Section 9-6-7 Special Agreements with Industrial or Private Concerns

A. No statement contained in this Article shall be construed as preventing any special written agreement or arrangement reduced to writing between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern.

B. The Town may accept waste from private individuals or companies delivered for dumping at the sewer treatment plant. Fees for such dumping shall be established by resolution from time to time. The Town may refuse to accept such waste if the individual or company is delinquent in payment of applicable fees.

Article 9-7 LIABILITY

Section 9-7-1 Interruption of Service
Section 9-7-2 Liability Limited
Section 9-7-3 Compliance with Regulations a Condition for Service

Section 9-7-1 Interruption of Service

The Town shall notify the consumer in advance of any anticipated interruption of service when such advance notice is possible. The Town shall not be responsible for any interruption of sewer service caused by forces beyond its control.

Section 9-7-2 Liability Limited

No liability shall attach to the Town for any injury or damages that may result from turning on or shutting off the sewer in any main service connection, or pipe; or the resumption of use or discontinuance of any sewer service, or any failure of the water supply, regardless of any notice or lack of notice thereof. The Town shall not be held liable for the condition, defects, failure or use, of any pipe, connection, fixture or appurtenance, not belonging to the Town, or any premises, or for loss or damages resulting therefrom. The consumer accepts this limitation by applying for and utilizing sewer service.

Section 9-7-3 Compliance with Regulations a Condition for Service

Compliance with all provisions contained in this Chapter 9 shall be considered a condition of every consumer/occupant receiving sewer service from the Town and such consumer/occupant receiving sewer service shall be considered as having expressly consented to be bound thereby. Consumers outside the Town limits shall also be so bound upon application for sewer service, and may also be required to sign a statement agreeing to the provisions of this Chapter.

Article 9-8 STREET EXCAVATIONS

Section 9-8-1 Permit Required
Section 9-8-2 Application for Permit
Section 9-8-3 Permit Provisions
Section 9-8-4 Excavation Standards

Section 9-8-1 Permit Required

It is unlawful for any person to cut, open, excavate, or remove any concrete pavement or any other portion of any street, sidewalk, alley or public place in the Town without first obtaining a permit from the Town for that purpose.

Section 9-8-2 Application for Permit

Any person desiring to cut, open, excavate or remove any portion of any street, sidewalk, alley or public place in the Town shall make application to the Town for a permit to do such work, stating the location, purpose and approximate extent thereof. A separate application shall be made for each location where it is proposed to cut or open such street, sidewalk, alley or other public place.

Section 9-8-3 Permit Provisions

Each permit issued by the Town for cutting or removing any portion of any street, sidewalk, alley or public place, shall provide that the person to who such permit is issued shall save and hold the Town harmless from any claim or injury or damages resulting from the performance or maintenance of such work and shall, during the progress of such work keep and maintain proper barriers and lights for the protection of the public in the use of such streets, sidewalks, alleys and public places.

Section 9-8-4 Excavation Standards

Any person issued a permit pursuant to this Article shall at all times protect the public using same against any injury or damage caused by or arising out of the cutting, removing and maintaining any opening in such public place, and shall erect and maintain at such places at all times proper barriers and lights. All work shall be completed and performed in a workmanlike manner so as to avoid creating inconvenience to the public in the use of such streets, sidewalks, alleys and public places. Upon completion of the work such public streets, alleys, sidewalks or other public places shall be restored to the condition that they were prior to the permitted entry and all in compliance with standards established by the Public Works Director. Before and after pictures may be required by the Director. Franchise Agreements shall be controlled by their terms unless there are no such standards contained therein in which case they shall be governed by this Article or applicable regulation.

Article 9-9 SIDEWALK CONSTRUCTION AND IMPROVEMENT

Section 9-9-1 Grades Generally; Duty of Public Works Director
Section 9-9-2 Official Specifications
Section 9-9-3 Public Works Director to Furnish Official Specifications
Section 9-9-4 Duties of Abutting Owners
Section 9-9-5 Liability of Abutting Owners for Defective Sidewalk
Section 9-9-6 Procedure for Repairing Sidewalks Generally
Section 9-9-7 Repair of Sidewalks by Town upon Failure of Abutting Owner
Section 9-9-8 Service of Notice on Abutting Owners
Section 9-9-9 Resolution of Council to Construct
Section 9-9-10 Notice to Abutting Owners
Section 9-9-11 Duty of Abutting Owners; Construction by Town
Section 9-9-12 Construction Contracts Awarded by the Town

Section 9-9-1 Grades Generally; Duty of Public Works Director

It is unlawful for any person to construct any sidewalk, gutter or curb of cement or concrete within the Town unless the grade of such sidewalk, gutter or curb has been established or approved by the Public Works Director. It is the duty of the Public Works Director, upon demand being made in writing by all the owners of the property fronting on any one block to furnish the grades for any such sidewalks, gutters or curb within sixty (60) days after such demand in writing.

Section 9-9-2 Official Specifications

It is unlawful for any person, whether owner, contractor or otherwise, to lay or cause to be laid any sidewalk on any public street or alley unless such sidewalk shall be laid according to the lines and official grades for such work as furnished by the Director of Public Works in accordance with the specifications for such work approved and adopted by the Director.

Section 9-9-3 Public Works Director to Furnish Official Specifications

It is the duty of the Public Works Director to furnish upon request to any owner whose property abuts upon or is contiguous to any street that is to be improved by the laying of a sidewalk or to the contractor who is to lay the sidewalk, the lines and grades established for such sidewalks by the Town.

Section 9-9-4 Duties of Abutting Owners

It is the duty of the owner, or the lessee of any lot or parcel abutting upon any sidewalk now in existence, or hereafter constructed, to keep and maintain such sidewalk in repair.

Section 9-9-5 Liability of Abutting Owners for Defective Sidewalk

Any owner of any lot or parcel of land abutting on any sidewalk of the Town who fails to keep the same in repair, shall be liable for any damage on account of any injury that may be occasioned by reason of the defective condition or want or repair of any sidewalk in the Town.

Section 9-9-6 Procedure for Repairing Sidewalks Generally

Whenever any sidewalk in the Town shall become defective, the director shall notify the owner of the abutting property of such defective condition and shall notify the owner to immediately repair such sidewalk and unless immediate steps are taken by the owner to repair the sidewalk, the Town shall proceed to repair the sidewalk and tax the cost of such repair to the abutting property owner and make such cost a lien upon the property abutting on the sidewalk so repaired. Any such owner shall be liable for and pay the cost and expenses incurred by the Town for repairing such sidewalk and the property abutting on such sidewalk so repaired shall be subject to a lien for the cost and expenses incurred by the Town in repairing such sidewalk.

Section 9-9-7 Repair of Sidewalks by Town Upon Failure of Abutting Owner

A. Whenever any owner shall have been notified to repair any sidewalk, as provided in the preceding Section and shall fail to repair such sidewalk as required by the notice, the Director may at any time after such notice, proceed to repair such sidewalk and when so repaired by the Town, the cost of such repair shall be paid by the owner and collected as provided in this Article.

B. The Town shall notify the owner of such abutting property of the amount due for repairing such sidewalk and the owner shall thereafter pay to the Town the amount of the cost of such repair. Upon failure on the part of the owner to pay such cost within forty five (45) days after notice, the director shall certify to the Pinal County Tax Assessor the amount due from such owner for the repair of such sidewalk, together with the property on which the costs for repair is a lien, which shall be extended by the County Assessor on the tax rolls of the County as a lien against such abutting property so repaired and when so extended, it shall be collected and paid in the manner that other taxes of the Town are paid and collected.

Section 9-9-8 Service of Notice on Abutting Owners

The Director shall by certified mail to the owner at the address of such owner in the Town, or at the last known address as listed with the county assessor, any notice provided for in this Article. If the address of the owner is unknown or the same may not be reached by mail, the public works director may publish notice in the official newspaper of the Town for one publication and such service of notice shall be complete and shall have the same force and effect as if personally served upon any such owner.

Section 9-9-9 Resolution of Council to Construct

A. The Council, whenever it is in the best interests of the public, may pass a resolution providing for the construction of sidewalks. The sidewalks shall be briefly described in said resolution. The resolution shall set forth the width of the sidewalk to be constructed and the location of such sidewalk. The resolution may order and direct that the construction of such sidewalk shall be made by the owners of the abutting property and also that in the event of the failure of the abutting property owners to construct such sidewalks, the Town shall do the work and the expense shall be charged to the abutting property owners.

B. Such resolution shall be published as provide in A.R.S. 39-204 for two publications in the official newspaper. The director shall also cause same to be posted along the line of the proposed improvement and upon the lots in front of which the sidewalks are to be constructed.

Section 9-9-10 Notice to Abutting Owners

The Director shall also notify the owner of each lot or parcel abutting upon any sidewalks to be constructed of the passage of such resolution and notify them that they shall commence such work within thirty (30) days from the date of the notice and that, upon failing to commence such work and prosecute the same to completion with sixty (60) days that the Town will proceed to construct such sidewalk and make the same a lien upon the abutting lot or parcel and have such lien extended as a tax against the property to be collected as other taxes of the Town are collected when same become due and payable.

Section 9-9-11 Duty of Abutting Owners; Construction by Town

It shall be the duty of the owner of any lot or parcel abutting upon such proposed sidewalk to proceed to construct such sidewalk as provided by the terms of the resolution of the Council. Upon failure of such owner to comply with such resolution and the notice provided, the Town shall have the right to construct such sidewalks and assess the costs thereof to the abutting property owner. From and after the entering of the assessment upon the records of the Town, such costs shall be a lien against the property and shall be entered upon the tax trolls of the Town and be collected as other taxes.

Section 9-9-12 Construction Contracts Awarded by the Town

The Town may contract for the construction of any sidewalk and the Director is hereby authorized to make written specifications and receive all bids in accordance with the procedures set forth in Title 34, Arizona Revised Statutes.

Article 9-10 OBSTRUCTION OF STREETS

Section 9-10-1 Obstruction of Streets Prohibited
Section 9-10-2 Exceptions
Section 9-10-3 Encroachments Prohibited

Section 9-10-1 Obstruction of Streets Prohibited

It shall be unlawful for any person to cause any street, alley or right of way within the Town to become obstructed or encumbered by placing or leaving thereon any personal property of any kind or character or any trash or rubbish.

Section 9-10-2 Exceptions

Section 9-10-1 shall not prohibit the incidental use of streets for the moving or conveying of personal property, trash or rubbish or pursuant to a permit issued by the Public Works Director as provided above.

Section 9-10-3 Encroachments Prohibited

It shall be unlawful for any person to cause or maintain any encumbrance or obstruction of public property or right of way by encroachment therein with any foundation, wall, fence, post or any other structure or cohesive ground surfacing material without having first obtained a written encroachment license agreement from the Town. Such license agreement shall not be issued except upon a finding that the use licensed will not impair necessary public use, access, reservation, is not otherwise prohibited, and is in the best interests of the Town. Encroachments into public property or rights of way shall not exceed the term, terms, conditions or extent provided in the license agreement. Any license agreement issued under this Section shall contain provisions holding the Town harmless from any and all liability arising from the use of the right of way or property, releases the Town from any obligation to maintain the use and from damages to same, provides that the licensed person agrees to remove same upon expiration or revocation of the license at no cost to the Town, such other terms as the Town may require and sufficient sureties therefore. The following are exempt from the provisions hereof:

1. Authorized traffic control structures, signals and signs;

2. Vehicle driveway surfacing properly aligned with the curb opening provided for such purpose;

3. Authorized sidewalks.

Article 9-11 ABANDONMENT AND VACATION OF STREETS

Section 9-11-1 Abandonment of Streets and Rights of Way
Section 9-11-2 Application for Abandonment

Section 9-11-1 Abandonment of Streets and Rights of Way

Abandonment, vacation or sale of public rights of way shall be in accordance with state law procedures and upon such terms as the Council may prescribe.[54]

Section 9-11-2 Application for Abandonment

Applications for abandonment and vacation of public streets and rights of way shall be in accordance with state law and upon such terms as the Council may prescribe from time to time on forms provided by the Town. All information requested by the Town shall be provided by the applicant prior to consideration by the Council. The Council may establish fees and costs to be paid by resolution from time to time.

54**Editors' Note**: State law reference: A.R.S. 28-7201 et. seq.

Article 9-12 GARBAGE AND TRASH COLLECTION

Section 9-12-1 Definitions
Section 9-12-2 Collection Agency
Section 9-12-3 Collection Hours, Rules and Regulations
Section 9-12-4 Rates

Section 9-12-1 Definitions

In this Article, unless the context otherwise requires:

A. Garbage: Means all putrescible wastes, except sewage and body waste, 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.

B. Refuse: Means all garbage and trash.

C. Trash: Means all non-putrescible wastes.

Section 9-12-2 Collection Agency

The Town, or collectors authorized by the Town, by shall collect all residential refuse within the Town. All collectors authorized for the collection of refuse shall also have a current Town business license and shall comply with all applicable agreements, rules and regulations.

Section 9-12-3 Collection Hours, Rules and Regulations

The hours of collection of refuse shall be designated by the head of the Public Works Department. All occupants, tenants or owners of property within the Town shall comply with all provisions of this Chapter and the designations by the Public Works Department.

Section 9-12-4 Rates

The Council shall from time to time fix the rates and classifications for residential garbage and trash collection within the Town. Each residential owner, tenant or occupant of an occupied residence shall pay the established fee. Failure to pay shall be a violation of this code punishable as provided in Section 1-5-1(A). A street usage franchise fee is imposed upon any waste contractor of $3.60 per month for every customer served under Agreement with the Town.

Article 9-13 PREPARATION OF REFUSE FOR COLLECTION

Section 9-13-1 Preparation of Refuse
Section 9-13-2 Location for Pick Up - Clean up
Section 9-13-3 Lids and Covers
Section 9-13-4 Use of Containers
Section 9-13-5 Unlawful Storage or Collection

Section 9-13-1 Preparation of Refuse

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

A. Garbage: The customer shall furnish containers for the accumulation, storage, and collection of all garbage. Such containers shall be tightly covered and be of rust resistant metal or plastic and shall have handles on the outside. The maximum capacity of each container shall not exceed ninety-five (95) gallons. Such containers shall be kept in good repair and in a sanitary condition. Containers found to be no longer serviceable through disrepair or maintained in an unsanitary condition may be prohibited by the Town for further use. Legal notice of such prohibition shall consist of a label or tag affixed to the container. Receptacles not placed in a satisfactory condition or replaced within fifteen (15) days of said notice may be removed and destroyed by the Town without further notice.

B. Trash: Trash shall be placed in containers or tied in bundles by the customer and set out for collection. Containers may be garbage containers described above, or boxes not exceeding three (3) square feet by four (4) feet deep. In any event, the weight of a loaded container or bundle shall not exceed seventy-five (75) pounds.

C. Brush: Brush shall be cut into such size, not more than five (5) feet in length, that one person can readily load the individual pieces into a truck or chipper and shall be piled in neat order with all long branches parallel to one another, and shall have all metal or foreign materials removed to facilitate chipping.

D. Building Materials: All owners, contractors and builders of structures shall, upon the completion of any structure, gather up and haul away, at their sole cost and expense, all refuse of every nature, description or kind, which has resulted from the building of such structure, including all lumber scraps, shingles, plaster, brick, stone, concrete, and other building material, and shall place the lot and all premises utilized in such construction in a sightly condition. The forgoing provision notwithstanding, the Town may dispose of small amounts of building materials from time to time for residential customers, providing it is arranged for collection in accordance with Town requirements and contains no prohibited items.

E. By-products: Any commercial or manufacturing establishment which by the nature of its operations creates an unusual amount of by-product refuse may be required by the Town to dispose of its own refuse or waste as opposed to having the Town provide the service.

F. Hazardous or Dangerous Waste: The Town, nor its contractor, shall collect hazardous or dangerous waste, refuse or materials including, but not limited to, engine or cooking oil, paint,

or hot ashes. Any such refuse or materials must be disposed of by the owner or occupant of the premises in compliance with all local, State and federal laws or regulations.

G. Soil and Concrete: Waste soil, concrete, masonry blocks, sod and rocks shall be disposed of in a lawful manner by the owner, tenant, or occupant of the premises.

H. Tires - Batteries: The Town shall not collect tires or batteries. Such items shall not be stored or collected on any premises unless otherwise authorized by law. All owners, occupants or tenants shall dispose of all used tires and batteries in a manner allowed by federal, State and local law within ten (10) days of the date they are first placed on the premises.

I. Appliances: Stoves, refrigerators, freezers, coolers, washers, dryers, air conditioning units, hot water tanks and furnaces shall not be collected by the Town except by special prior arrangement with the Town's contractor and the payment of the applicable fee.

Section 9-13-2 Location for Pick Up - Clean Up

A. All refuse shall be prepared for collection in the proper manner and placed in the location designated for collection by the Public Works Director. All containers of garbage or refuse and bundles of trash shall be so located as to not block the street, alley, sidewalk, or gutter, or otherwise be a hazard to pedestrian or vehicular traffic. Garbage and trash shall be placed in the designated area only on the date collection is to occur, at a time which will allow for collection at normal collection time, or as otherwise designated by the Department.

B. The customer shall keep clean the area where his/her container is set out for pick up. The customer shall keep his/her solid waste from scattering from the pick up point to other premises and the public right-of-way.

Section 9-13-3 Lids and Covers

The lids or covers of all containers shall at all times be kept secure so that flies and insects may not have access to the contents, and shall only be removed while the container or receptacle is being filled, emptied, or cleaned.

Section 9-13-4 Use of Containers

It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that he/she does not own or is not entitled to use as a tenant or occupant of the property on which the container is located.

Section 9-13-5 Unlawful Storage or Collection

It is unlawful for any person, owner or occupant to collect, store or fail to dispose of any refuse, junk, appliance or other materials as required in this Chapter or applicable rules or regulations.

Article 9-14 OTHER METHODS OF GARBAGE AND TRASH REMOVAL

Section 9-14-1 Hauling Refuse
Section 9-14-2 Vehicles and Receptacles to be Spill Proof
Section 9-14-3 Spilled Refuse
Section 9-14-4 Dumping Refuse
Section 9-14-5 Violations - Penalty

Section 9-14-1 Hauling Refuse

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue, or alley in the Town, in violation of any provision of this Chapter.

Section 9-14-2 Vehicles and Receptacles to be Spill Proof

It is unlawful for any person to haul or cause to be hauled on or along any public street in the Town any garbage, unless such garbage is contained within a strong watertight vehicle or within a watertight receptacle constructed to prevent any such garbage from falling, leaking, or spilling and any odor from escaping.

Section 9-14-3 Spilled Refuse

Any person hauling any refuse along the streets of the Town shall immediately replace, in the conveyance used for such hauling, any refuse which may fall upon any street.

Section 9-14-4 Dumping Refuse

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the Town, except as specifically permitted in this Chapter.

Section 9-14-5 Violations – Penalty

It shall be a civil violation punishable as provided in Section 1-5-1(A) to fail to comply with any provisions of this Chapter. Each day a violation continues shall be a separate offense.

Article 9-15 TOWN CEMETERY

Section 9-15-1 Town owned Cemetery, Rules and Regulations
Section 9-15-2 Sale of Lots
Section 9-15-3 Lot Improvements
Section 9-15-4 Mortuaries must be Licensed
Section 9-15-5 Maintenance
Section 9-15-6 Conduct of Persons Within Town of Superior Cemetery
Section 9-15-7 Violation - Penalty

Section 9-15-1 Town Owned Cemetery, Rules and Regulations

The Town may at its discretion provide a cemetery and burial lots as a public service and the Council shall from time to time establish fees and regulations regarding the sale, use and maintenance of the cemetery lots in order to maintain administrative control and preserve said property.55

Section 9-15-2 Sale of Lots

A. Upon purchase of lots, buyers shall assume responsibility for general maintenance of any improvements and decorations. All improvements are subject to Town regulations as may be amended from time to time and no improvements shall be made in violation of this Code.

B. No lots shall be purchased for speculation nor shall lots be resold for a profit. Individual lot prices shall be established adopted pursuant to this Article. No lot shall be resold or transferred except through the Town.

C. The Town shall designate blocks within which lots may be purchased.

Section 9-15-3 Lot Improvements

No lot improvements may be made without complying with this Code. No lot improvements are to be constructed on weekends without making special arrangement with the Town.

Section 9-15-4 48 Hours Notice Required

All grave openings shall be prepared by the Town. The Town requires not less than forty-eight (48) hours notice prior to a grave opening.

Section 9-15-5 Maintenance

The Town of Superior may provide cemetery maintenance to the extent of budget limitations and reserves the right to establish reasonable maintenance fees for any lots purchased and held in reserve. Maintenance fees may be established by Council Resolution.56

55Editor's Notes: Enabling statutes A.R.S. 9-240(B) 9 & 11

56Editor's Notes: Maintenance fund authorized A.R.S. 9-453

Section 9-15-6 <u>Conduct of Persons Within Town of Superior Cemetery</u>

A. Automobiles shall not be driven through the cemetery at a greater speed than fifteen (15) miles per hour and shall be kept on the right side of the roadway.

B. Bicycles and motorcycles are not permitted in the cemetery except when in attendance at funerals or on cemetery business.

C. Children under twelve (12) years of age shall not be permitted within the cemetery or its buildings unless accompanied by an adult responsible for them.

D. Animals shall not be permitted on the cemetery grounds.

E. No person shall gather flowers or damage or remove shrubbery or plants.

F. Depositing of rubbish on the walkways, roads, grounds, graves, or gravesites or in the buildings is prohibited.

G. No person shall willfully or maliciously deface, break, destroy, disturb, or remove a tomb, monument, or grave stone erected for a dead person or mark, deface, injure, destroy, disturb, or remove any fence post, rail, or wall of the cemetery.

H. No persons shall loiter within the cemetery except for purposes directly related to the purposes of the cemetery;

I. The hours of the cemetery shall be from 7:00 A.M. to 7:00 P.M. and no persons shall be allowed in the cemetery at other times.

J. All persons shall comply with the Cemetery Rules and Regulations adopted by the Council.

Section 9-15-7 <u>Violation – Penalty</u>

Any violation of the provisions of this Article or the rules and regulations adopted pursuant to this Article shall be a civil violation punishable as provided in Section 1-5-1(A) of this Code. Each day a violation continues shall be a separate offense.

Article 9-16 <u>ADDRESSING AND STREET NAMING</u>

Section 9-16-1 Purpose

Section 9-16-2 Applicability

Section 9-16-3 Definitions and abbreviations

Section 9-16-4 Assigning number to properties

Section 9-16-5 Street names

Section 9-16-6 Renaming existing streets

Section 9-16-7 Street name signs

Section 9-16-8 Posting of property numbers

Section 9-16-1 <u>Purpose.</u>

This article is to provide for the uniform assignment of property numbers on residences, public buildings, and businesses along public and private streets or roads; to provide for the naming and renaming of streets or roads, and to provide addressing for emergency services responding to 911 calls.

Section 9-16-2 <u>Applicability.</u>

This chapter shall apply to all incorporated portions of the Town of Superior.

Section 9-16-3 <u>Definitions and abbreviations.</u>

The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them below:

A. AVENUE (AVE): Thoroughfares that run in any direction. A common default suffix.

B. ADDRESSING BASELINE: Two imaginary lines, one running north and south, and one running east and west intersecting at a zero point.

C. BOULEVARD (BLVD): A broad thoroughfare that acts as a collector and often has a median (Not applicable as of June 2018).

D. CIRCLE (CIR): A curvilinear thoroughfare that returns to its starting point.

E. COLLECTOR: Provides the traffic movement within neighborhoods between major thoroughfares and local thoroughfares, and for direct access to abutting property.

F. COURT (CT): A relatively short, uninterrupted dead-end street such as a cul-de-sac.

G. DRIVE (DR): Winding, diagonal, curvilinear, meandering, or other types of thoroughfares not otherwise defined.

H. GRID LINES: Imaginary lines constructed perpendicular and parallel to addressing baselines used to define address numbers.

I. HIGHWAY (HWY): Designated county highway, state route, state highway or federal access route.

J. LANE (LN): A local thoroughfare.

K. LOOP (LOOP): A thoroughfare that begins and ends on the same side of the originating street but not in the same place.

L. PARKWAY (PKWY): A special scenic route or park drive that is not a local thoroughfare.

M. PLACE (PL): A cul-de-sac or permanent dead-end road or a local thoroughfare in a subdivision.

N. PREFIX DIRECTIONAL: One character compass point preceding a street name that indicates a direction. For example: North (N), South (S), East (East) and West (W).

O. ROAD (RD): Thoroughfares that run in any direction. A common or default suffix.

P. STREET (ST): Thoroughfares that run in any direction. A common or default suffix.

Q. SUFFIX: Word following a street name that indicates the street type.

R. TRAIL (TRL): A winding thoroughfare.

S. THOROUGHFARE. A generic term for providing for the movement of traffic and access to various land uses.

T. WAY (WAY): A local thoroughfare.

Section 9-16-4 <u>Assigning number to properties.</u>

A. Property numbers for dwelling units, places of business, and public and private utilities and other properties along streets as necessary for permitting and/or safety purposes, shall be assigned by the planning and development department in accordance with provisions outlined herein.

B. Property numbering shall be sequential.

C. In addressing grids with zero points, all streets running north perpendicular to the east-west zero-point baselines shall have a north prefix directional. All streets running south perpendicular to the east-west zero-point baseline shall have a south prefix directional. All streets running

east perpendicular to the north-south zero-point baseline shall have an east prefix directional. All streets running west perpendicular to the north-south zero-point baseline shall have a west prefix directional.

D. Even numbers shall always be assigned on the north and west sides of streets and odd numbers shall always be assigned on the south and east sides of streets. Once assigned, numbers shall not be arbitrarily changed without the approval of the planning and development department.

E. The numbering system shall allow for expansion to accommodate future growth in the area.

F. Numbering shall be according to the applicable Pinal County grid system.

G. Multiple dwelling units:

1. Numbers shall be assigned to the property where a driveway joins the street; this becomes the street address of all units which face upon that interior court. Separate internal units of condominiums and apartments shall be designated with sub-numbers or letters, not individual property numbers.

2. Mobile home parks shall be treated like other multi-family developments. The property shall be assigned one number, and each mobile home space shall receive numerical designations such as, “Sp. 1, Sp. 2, Sp. 3, etc.” However, if the development is a mobile home subdivision built in conformance with subdivision regulations, the properties shall be addressed as individual residences.

H. Business addressing. Businesses shall be numbered with the main building receiving one address and each individual office being assigned suite numbers as secondary location

I. Indicators. In business condo plats, lots may be addressed per lot, per building or per development with individual suite numbers assigned as secondary location indicators.

J. Numbering when streets change direction. If a street changes direction drastically and for a substantial length, the numbering may be changed to reflect the orientation with a different prefix directional and/or name.

K. Diagonal streets. The general principle to apply when numbering diagonal streets is to treat the street as either a north-south or an east-west street based on the greatest distance covered in any specific direction.

L. Corner lots. When assigning a number to a building on a corner lot, assign a number from the street upon which the main entrance faces for a business or assign a number from the street from which the driveway enters for a residence. If a corner building has two entrances which both look like main entrances, the decision is based on the general site layout and driveway entrance.

M. Duplex buildings and houses on interior lots:

1. One number shall be assigned to a duplex building with sub-numbers or letters for each internal unit.

2. Separate numbers shall be assigned for single-family dwellings in the rear of other single-family dwellings.

3. If a commercial enterprise that is part of a residence has a separate entrance from the street, it may also be assigned a separate number. If there is a rear entrance or a hidden structure, a post should display the number on the path leading to the entrance, even if it is reached through another structure.

N. Numbering on circle streets. Odd ending digits will be assigned in a consecutive and corresponding manner to the properties on the outside of the circle while even ending digits will be assigned in a consecutive and corresponding manner to the properties on the inside of the circle.

O. Annexation. If an area is annexed by a municipality, the existing addresses will then be the responsibility of the municipality.

Section 9-16-5 <u>Street names.</u>

The following general principles of street naming shall be used when naming or renaming streets within the unincorporated area of the county:

A. Objective. Names shall be easy to pronounce and easy to spell so the public and children in particular, can recite the name in an emergency situation.

B. Unacceptable street names. Unacceptable street names are:

1. Numerical names (1st, 2nd, etc.);

2. letters of the alphabet (A, B, C, etc.);

3. copyrighted and trademark names;

4. famous names;

5. complicated words;

6. unconventional spellings;

7. duplicates particularly within the same postal delivery or emergency response area;

8. street names pronounced similarly;

9. names with 22 or more letters and spaces including the suffix abbreviation within the full address format (i.e. SPECTACULAR MOUNTAIN VIEWS = 26 characters with spaces); and

10. directional name or street suffix cannot be used in the street name; example (a): E SOUTH HAVEN ST must be E HAVEN ST; example (b): E Memory Trail DR must be E Memory DR.

C. Complete name. A complete name shall consist of no more than four words, including the appropriate mandatory prefix directional and any optional suffix. Examples:

1. W Twin Butte Road – Prefix Directional (1 word); Primary (2 words); Suffix (1 word).

2. S San Mateo Castro – Prefix Directional (1 word); Primary (3 words)

D. Prefix directional. All street names shall begin with one directional prefix of North, South, East, or West. Abbreviations shall be: N, S, E, or W. Combinations of directions are not acceptable. Example: Northwest Sierra Circle.

E. Suffix. Suffix types should reflect the character of the roadway. Lane, drive, place, and way are minor roadways. Road, drive, street, and avenue may be local thoroughfares. Road, avenue, street, boulevard, and parkway may be major arterial streets. No residential lots shall front a boulevard or parkway.

F. Name duplication. Similar sounding names are considered to be duplications regardless of spelling. No duplication of names for new roadways is permitted within the projected service area of the U.S. Postal Service or of local public agencies such as fire and police departments. G. Continuity. A continuous street, or one proposed to be continuous, should bear the same name and suffix through its alignment except in the case of a cul-de-sac which might be identified as a court.

G. Corrections:

1. The planning and development department shall correct an address number or street prefix directional not in conformance with this chapter when the change is necessary to prevent confusion for emergency services responding to 911 calls.

2. Notice of the change shall be mailed by the planning and development department to all owners of the property whose address has changed.

3. Notice of the change shall also be transmitted by the planning and development department to the U.S. Postal Service and the 911 system.

Section 9-16-6 <u>Renaming existing streets:</u>

A. The proposed renaming of a street may be initiated by:

1. The Council or

2. A citizen's petition

a. The petition must contain the following:

i. signatures of at least 65 percent of the property owners with frontage on or addresses assigned from the subject street of the proposed name change.

ii. a reason why the name change is needed (example: eliminate duplicate name, help improve emergency services to the area),

iii. the names, addresses, assessor's parcel numbers and signatures of each property owner signing the petition.

iv. existing name and proposed name with an alternative name and

v. description of the beginning and end of the street subject to the proposed name change.

vi. identify whether the street is public or private.

b. Each parcel of real property is entitled to one vote.
   i. Where Town-owned properties are affected, the Town Council will vote by motion for each property.

c. The petition shall be accompanied by the following:

   i. the applicable filing fee

   ii. a list of names and addresses of property owners with frontage on or addresses assigned from the subject street of the proposed name change and of service and emergency organizations (for example: fire, police, post office) that service that area.

   iii. a statement that the existing street is or is not named after a person, place or event of historical significance.

   iv. a statement as to whether the proposed street name is for a person, place or event of historical significance.

d. The petition must be filed with the planning and development department together with any documentation the petitioners can provide as to when and how the road, which is the subject of the proposed name change, was created.

e. A copy of the petition shall also be delivered to the office of the Chief of Police and the office of the Fire Chief for public safety review and comment.

B. For proposed name changes to an existing street or right-of-way, the planning and development department shall originate a map showing the location of the street and the existing name and proposed name change.

C. The council shall hold at least one public hearing on the proposed name change and proposed alternative name change. Notice of the public hearing and the map shall be given as follows:

1. By publication at least once in a newspaper of general circulation in the area of the proposed name change. If the subject area does not have a newspaper of general circulation, then publish in a newspaper of general circulation in the adjacent area or the county seat.

2. By posting at reasonable intervals, as determined by the planning and development department, along the subject street of the proposed name change at least 15 calendar days before the date of the public hearing,

3. By first class mail to each property owner, as shown on the assessment of the property, with frontage property or address assigned from the subject street of the proposed name change.

D. Notice of the public hearing shall include the location of the proposed name change; the existing name; proposed name change; proposed alternative name change; the date, time, place and location of the public hearing; and the period and location for filing a letter of objection or support.

E. If the council approves the name change, the planning and development department will mail out a written notice to the residents/property owners affected by the name change stating the new address and enclosing a copy of PCDSC 2.219.080 "Posting of property numbers."

F. After approval of a name change by the council, a subsequent, proposed name change for that specific street shall not be considered for a period of five years from the date of the council' approval.

Section 9-16-7 <u>Street name signs.</u>

A. The public works department shall prepare, place and maintain street signs for public streets and at intersections of private ways and public streets outside of subdivisions.

B. The developer shall be responsible for purchase and installation of all street name signs within a subdivision, including intersections with perimeter streets. All street name signs shall conform to county standards and shall be furnished and installed at no cost to the Town at locations as shown on the approved plans.

C. Purchase of the replacement signs for private streets within a subdivision shall be the responsibility of the homeowner's association. On public streets, the Town Council may vote to require the applicant to cover the cost to the Town of purchasing and installing new signs.

D. All street name signs, except those specified in "A," "B," and "C" of this section, may be purchased from the public works department by the individual who requested the approved street name. All street name signs and installation of such signs must conform to county standards and requirements. Fees for street name signs purchased from and/or installed by the public works department may be assessed pursuant to A.R.S. §11-251.08(A).

Section 9-16-8 <u>Posting of property numbers:</u>

Methods and characteristics for posting assigned property numbers are as follows:

A. Property numbers shall be posted on the lot or parcel at the time of construction and are to be visible from and oriented toward the street from which the address is taken.

B. When a house or building is some distance from a road, or when the view of the house or building is obstructed, the property number shall be posted in a manner visible from the road.

C. On a corner lot, the property number shall face the street named in the address.

D. Numerals indicating the assigned address for each principal building or each front entrance to such building shall be posted in a manner as to be legible and distinguishable from the street in which the property is located.

E. Numerals shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102mm) high with a minimum stroke width of 0.5 inch (12.7mm).

F. In case a principal building is occupied by more than one business or family dwelling unit (duplex), each separate front entrance shall post a building and unit number, suite or floor number, as applicable.

G. Owner, occupant or person in charge shall post property numbers. Property numbers must be posted within 60 calendar days after receiving written notification of an assigned number.

H. It shall be the duty of such owner, occupant or person in charge thereof upon posting the new number to remove any different number which might be mistaken for or confused with the number assigned to the structure by the planning and development department.

I. If a property number is damaged, lost, or in any way destroyed, the current assigned number shall be replaced immediately by the owner, occupant or person in charge of the residence or building.

CHAPTER 10 – HEALTH AND SANITATION

Article 10-1 PROPERTY MAINTENANCE AND PUBLIC NUISANCES

Section 10-1-1	Definitions
Section 10-1-2	Property Maintenance Code
Section 10-1-3	Litter, Dilapidated Structures, Abandoned or Junk Vehicles
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Section 10-1-29	Security for Vacant Buildings
Section 10-1-30	Requirements for the Security of Vacant Buildings
Section 10-1-31	Violations - Penalties

Section 10-1-1 Definitions

In this Article, unless the context otherwise requires:

A. Abandoned or Junk Vehicle: Means a vehicle or any major portion thereof, which is incapable of movement under its own power and will remain so without repair and/or reconstruction. It shall also mean a vehicle being repaired when such repairs take in excess of thirty (30) days. It shall be presumed the vehicle or part thereof is “abandoned” or is a “junk vehicle” if any of the following conditions exist for more than three (3) consecutive days:

1. The vehicle cannot be started with its own battery, or

2. The vehicle is on blocks or similar devices, or

3. The vehicle has a deflated tire or tires,

4. A wheel or tire has been removed on the vehicle, or

5. The vehicle does not have a current, fully paid registration from the State of Arizona; or

6. It is a partially or wholly dismantled vehicle.

7. Abandoned or Junk Vehicles shall not include vehicles fully covered and located on private property.

B. Authorized Private Receptacle: A litter storage and collection receptacle as required and authorized in this Chapter.

C. Dilapidated Structure: Is a structure which has been reduced to, or fallen into, partial ruin or decay from fire, weather, age, wear, misuse or neglect. Dilapidated structure shall include any building or structure which has any, or all, of the conditions or defects hereinafter described, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are, or may be, endangered:

1. Whenever any portion thereof has been damaged by fire, earthquake, wind, and flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

2. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

3. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement or instability of any building; (iv) the deterioration, decay or inadequacy of its foundations; or (v) any other cause, is likely to partially or completely collapse, or has so collapsed.

4. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

5. Whenever the building or structure has been so damaged by fire, wind, age, wear, lack of maintenance, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminal or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts; (iv) a site for the infestation of insects, rodents or other pests.

6. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the County Health Officer to be unsanitary, unfit for human habitation or in such a condition that it may cause sickness or disease.

7. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive condition, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Chief to be a fire hazard.

8. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or equity jurisprudence.

9. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to make such building or structure, or portion thereof, an attractive nuisance or hazard to the public.

D. Enforcement Agent: The Town Manager, Code Enforcement Officer, Building Official, Police and Fire Officers, the Town Attorney, and any other person designated by the Town Manager, shall have the authority to issue and enforce warnings and citations pursuant to this Article.

E. Garbage: An accumulation of spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking, or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition.

F. Graffiti: An inscription or drawing carved or drawn on a stationary structure so as to be discernible from the public right-of-way and which degrades the beauty, appearance or value of property.

G. Hazard: A condition that may cause physical harm or injury to person or property.

H. Imminent Hazard: A condition that presents an immediate likelihood for causing physical harm or injury to person or property.

I. Improved property: Land on which buildings or other structures are located.

J. Infestation: The apparent presence of insects, rodents or other pests.

K. Junk: Items that in their present State are of little or no apparent `economic value that are not confined within an industrial area zoned and `approved as a junk or salvage yard in compliance with the Superior Zoning Code, such as an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper, or machinery parts; vehicles or vehicle parts, inoperative machinery or appliances, building materials wastes; litter; discarded or empty containers. Junk shall also include all types of litter or solid waste described in the Superior Town Code.

L. Land: All land in the Town of Superior whether improved or unimproved.

M. Litter: Means any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety, and shall include all putrescible and non-putrescible solid wastes including garbage, trash, ashes, street cleaning, dead animals, abandoned or junk vehicles or appliances, 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. The term "litter" shall also include any growth of weeds, brush, grass, or other vegetable growth of a height and condition which causes a high risk of fire or a breeding place for rodents or other unhealthy or unsanitary animals.

N. Notice to Abate: A notice issued to a property owner or occupant concerning violation of this Article requiring corrective action.

O. Occupants: The person occupying or having physical or legal custody of a structure or premises as a lessee or otherwise.

P. Owner: The person indicated on the records of the Pinal County Assessor, or other official body, as the owner of record of the property in question.

Q. Person: A human being, enterprise, corporation, association, partnership, firm or society.

R. Plant Growth: Vegetation, whether living or dead, such as grass, weeds, vines, bushes, cactus or trees.

S. Polluted: A condition that exists in water and is characterized by bacterial growth, algae, insect infestation, the remains of litter, debris, garbage, or any other foreign matter which because of its nature or location, constitutes an unhealthy, unsafe, or unsightly condition.

T. Private Premises: Means any lot, property, dwelling, house, building, or other structure, designed or used either wholly or in part for private residential or commercial purposes, whether inhabited or, temporarily or continuously, uninhabited or vacant, and shall include any lot, yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.

U. Property: Includes buildings, grounds, lots and tracts of land.

V. Public Place: Means any and all streets, sidewalks, boulevards, alleys, or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

W. Responsible Party: The owner and/or occupant of a building, structure or property shall jointly and severally be the responsible party for purposes of this Article.

X. Stored: Parking, leaving, locating, keeping, maintaining, depositing, remaining, or being physically present on private property.

Y. Street or Highway: The entire width between the boundary lines of every way publicly owned or maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Z. Structures: Includes buildings improvements and other structures that are constructed or placed on land.

AA. Unsafe Conditions: All unsafe conditions are declared to be prohibited and a public nuisance and shall be corrected, abated or removed by an appropriate method in accordance with the procedure specified in this Article or as otherwise provided by law. Unsafe conditions as used in this Article shall include, but shall not be limited to, any unguarded well, cesspool, excavation pit or hole which by virtue of abandonment, dilapidation or lack of maintenance is a hazard to the public, and any premises or any portion thereof which, as the result of the accumulation or collection of litter, dilapidated structures or abandoned or junk vehicles as defined herein, is or may be, an attractive nuisance to children or a danger to the life, health, premises, occupants, or safety of the public.

BB. Unsafe Buildings: All unsafe buildings, structures or conditions are hereby declared to be prohibited and public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this Article or as otherwise provided by law. For the purposes of this Code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, provided that such condition or defect exists to the extent that the life, health, premises, or safety of the public or its occupants are, or may be, endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged or maintained as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is materially in excess of the working stress or stresses allowed in the Building Codes for new buildings of similar structure, purpose or location.

3. Whenever any building or portion thereof has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

4. Whenever, for any reason, the building or structure or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

5. Whenever the building or structure, exclusive of the foundation, shows thirty three (33%) percent or more damage or deterioration of its supporting member or members, or fifty (50%) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

6. Whenever any building or structure has been constructed, exists or is maintained in violation of any requirement or prohibition applicable to such building or structure provided

by the building regulations of this Town, as specified in the Chapter 12, the International Fire Code, the Property Maintenance Code, Zoning Code, or of any law or ordinance of this State or Town relating to the condition, use, location or structure of buildings.

7. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion materially less, or in any supporting part, member or portion materially less, of the strength, fire resisting qualities or characteristics, or weather resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

8. Whenever a building or portion thereof is a dilapidated structure as defined herein.

CC. Vehicle: Every device by which any person or property is or may be transported or drawn upon a street or highway, excepting devices moved by human power or used exclusively upon stationary rails or tracts. Campers, trailers and boats shall be included in this definition.

DD. Weeds or Grass: Johnson grass, Bermuda grass, Rye grass, White horse nettle, any type of plant growth defined as a noxious weed by State law regardless of whether a particular property owner or occupant who is the subject of enforcement action under this Code regards the growth as desirable, and any other similar species or subspecies of weeds or grass of any kind.

Section 10-4-2 Property Maintenance Code

Any person violating any provision of the Property Maintenance Code adopted under Chapter 12, incorporated herein by this reference, shall be guilty of a civil violation punishable as provided in Section 1-5-1(A), unless cited as a habitual offender in which case such violation shall be punishable as provided in Section 1-5-1(B) of this Code. Citations may be issued pursuant to the provisions of Chapter 6 of this Code. Citations may be issued for violation hereof in addition to, in lieu of any other remedy, or both. Violations of the property maintenance Code are declared to be public nuisances which may also be abated through judicial or administrative abatement procedures as set forth in this Article. Notwithstanding any contrary language in this Code, in this Article, where two or more provisions address the same topic both shall apply but the most stringent shall control.

Section 10-1-3 Litter, Dilapidated Structures, Abandoned or Junk Vehicles

No person shall throw, deposit, allow or maintain litter, dilapidated structures, abandoned or junk vehicles or any other public nuisance on any occupied or unoccupied private premises within the Town, except that the owner or person in control of said private premises may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any other property within the Town

Section 10-1-4 Owner to Maintain Premises

The owner and person in control of any private premises shall at all times maintain the premises free of litter, dilapidated structures, abandoned or junk vehicles or any public nuisance and in compliance with the Property Maintenance Code; provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section 10-1-5 Unsanitary or Unsafe Conditions - Emergency Measures

A. Unsafe conditions such as leaking sewage from broken sewer lines, open cesspools, excavation pits or other similar unsanitary or unsafe conditions shall be abated as soon as practicable under the circumstances by the removal of water service to the building, other emergency remedial measures reasonably required, or by other legal means available to the administrative authority or health department.

B. To avoid injury or damage to its citizens unsafe conditions shall be abated as soon as reasonably possible after the condition has been reported to the proper authorities. No officer or official shall be liable in any manner for failing to cure or attempting to cure or remedy such condition.

C. Posting of Signs: Town enforcement agents should cause to be posted at each entrance to such building or premises, where reasonably prudent, a notice to read: "Unsafe Conditions Exist, Do Not Enter, Unsafe to Occupy, Building Department, Town of Superior"; such notice, if posted, shall remain posted until completion of the required repairs, the demolishing of the building or abatement of the unsafe condition, whichever shall apply.

Section 10-1-6 Emergency Action To Relieve Threat of Imminent Hazard

A. When a currently existing violation of this Article poses an imminent hazard, then the Town may immediately enter the property and take the minimum action necessary to relieve the threat of serious harm.

B. As soon as reasonably practicable under the circumstances, the Town shall serve a civil or criminal citation or summons and complaint on the person or persons responsible for the violation.

C. Promptly after service of the citation or complaint the magistrate shall set an expedited hearing on the matter. At the hearing, the Town must establish by a preponderance of the evidence that the Town complied with all of the requirements of this Section. If the Town fails to meet this burden, the court shall require the Town to pay the responsible party for the reasonable cost of any physical damage caused to that party's property by failing to comply with one or more of the requirements of this Section.

Section 10-1-7 Declaration of Public Nuisances

In addition to any other nuisances described in this Code, the following are declared to be public nuisances and prohibited:

1. Unsafe Conditions

2. Unsafe Buildings

3. Unsanitary Conditions

4. Dilapidated Structures

5. Abandoned or Junk Vehicles

6. Violations of this Article.

7. Litter

Section 10-1-8 <u>Restrictions</u>

A. It shall be unlawful for any person to violate of any of the following restrictions which shall also be a public nuisance:

1. In residential areas and in business areas where the storage of a particular vehicle is not necessary for the operation of the business enterprise, all vehicles being restored or repaired, shall be stored safely within a lawful building or structure or behind a fence in such a manner as to not be visible from beyond the lot boundaries from adjacent public ways, or covered with a car cover made of opaque material if said repairs or restoration takes twenty (20) days or longer. Where the storage of a vehicle is necessary to the operation of a business enterprise, it shall be stored on the premises in accordance with the applicable provisions of this Code, including but not limited to the Zoning Code.

2. No person shall deposit, store or maintain any garbage or junk that is visible from beyond the lot boundaries, except as authorized for collection under this Chapter.

3. All persons owning or occupying land or places of business within the Town shall keep the sidewalk or public places fronting or bordering their property free of garbage, junk, obstructions, and weeds or grass in excess of ten (10) inches, provided, however, this Section shall not prohibit the temporary storage of such matters in authorized receptacles for collection consistent with this Chapter.

4. No owner or occupant of land shall allow or permit trees, shrubs or plant growth on the land to endanger, impede, obstruct or interfere with vehicular or pedestrian use of any street, sidewalk, or alley within the Town, or the visibility of any traffic control device or signal.

5. No owner or occupant of land within the Town shall allow plant growth, or other materials, which are dead, dormant or so dry as to be readily flammable or combustible on such land that may constitute a fire hazard or other threat to the public health or safety.

6. No person shall deposit in, sweep upon, or permit to drain into any public right-of-way or public place of the Town any hazardous material, garbage, junk, obstruction, or similar matter which is offensive to sight or smell, impedes passage, or that may be detrimental to, public health.

7. No person shall allow any swimming pool or similar body of water to stagnate and thereby become polluted, offensive to the senses or unsafe for its intended use.

8. No owner or occupant of a building or structure within the Town shall permit graffiti on the building or structure or fail to eradicate graffiti from the building or structure within thirty (30) days of notice thereof.

9. No person shall erect or maintain any electric fence, erect or maintain any barbed wire or razor wire except that no more than three (3) strands of barbed wire or one (1) coil of razor wire not less than six feet and two inches (6'2") above the ground are permitted at the top of an otherwise lawful fence enclosing a municipal, institutional, or commercial use. Barbed wire fencing is not prohibited on premises larger than one acre used for agricultural or livestock purposes. Barbed wire or razor wire shall not extend beyond the premises permitted to be enclosed.

10. No owner or occupant shall fail to properly repair, replace, or remove any collapsed or fallen wall or fence adjacent to the public right-of-way.

11. No person shall park, or (in case of owner of occupant) allow or permit any person to park on the owners or occupant's land, any commercial vehicle or heavy equipment having a gross vehicle weight rating (GVWR) exceeding thirteen thousand (13,000) pounds on any undeveloped and un-surfaced private property in the Town except when necessarily required while actually conducting an authorized commercial purpose.

12. No person shall attach any sign to any public utility structure, traffic controldevice, street light standard, or similar structure in the public right-of-way except those signs erected by a public utility or government agency.

13. No person shall allow the windows in any building to remain broken and open to the elements in a manner that contributes or tends to contribute to the dilapidation of the building or that allows infestation. All broken windows shall be repaired or covered with glass, Plexiglas or other secure and non-combustible materials and glazed in to be weather tight. The material will be designed and of such color so as to blend in with the finish of the building.

Section 10-1-9 <u>Authority to Inspect</u>

A. Town enforcement agents, are hereby authorized to make inspections for violations of this Article in the normal course of job duties; or in response to a citizen complaint that an alleged violation of the provisions of this Article may exist; or when there is a reason to believe that a violation of this Article has been or is being committed.

B. In order to determine compliance with this Article, private property may be entered with:

1. the consent of the owner or occupant;

2. as authorized by an administrative or other search warrant issued by the Superior Court, Justice Court, or an order from the Town Magistrate Court authorizing the Town to enter the property and relieve the harm. The magistrate court shall issue such an order only upon a showing that probable cause exists to believe that a violation of this Article which poses an imminent hazard exists on the property.

3. When a violation of this Article is apparent from outside the boundary lines of the property, Town enforcement agents may enter the property for the purpose of issuing a notice of abatement or a citation and to document said violation.

Section 10-1-10 Failure to Provide Evidence of Identity

A person who fails or refuses to provide evidence of his/her identity to a duly authorized Enforcement Agent of the Town upon request, when such agent has reasonable cause to believe the person has committed a violation of this Article, is guilty of a misdemeanor. Evidence of identity under this Section shall consist of a person's full name, residence address, and date of birth.

Section 10-1-11 Commencement of an Action

A. Town enforcement agents as defined in this Article, are authorized to commence an enforcement action under this Article by issuing a citation. Town enforcement agents may also issue an administrative notice to abate, as may be approved by the Town Manager. Said enforcement agents may also seek the issuance of a complaint by the Town Attorney for habitual offenders or Petition for Judicial Abatement as defined in this Article or criminal complaints.

B. Nothing in this Section shall preclude Town enforcement agents from seeking voluntary compliance with the provisions of this Article, or from enforcing this Article through notices of violation, warnings or through other informal devices designed to achieve compliance in the most efficient and effective manner under the circumstances.

Section 10-1-12 Remedies not Exclusive

Procedures to enforce compliance with this Article are in addition to any other procedure established by law, this Code, and this Article shall not be interpreted as limiting the penalties, actions, or abatement procedures which may be taken by the Town or other persons under other laws, ordinances or rules. The Town shall not be allowed to bring simultaneous judicial and administrative abatement actions or to bring a separate abatement action for the same violation if the defendant has prevailed in a judicial or administrative abatement proceeding.

Section 10-1-13 Defendants and Responsible Parties

Any person who causes, permits, facilitates, allows, aids or abets any violation of this Article, or who fails to perform any act or duty required pursuant to this Article, is subject to the enforcement provisions of this Article. The owner and occupant of property found to be in violation of this Article are individually, jointly and severally responsible for the violation, the prescribed civil or criminal sanctions, and for abating the violation. It shall not be a defense to enforcement or abatement action under this Article that any other person may also be liable for any violation or abatement in whole or in part.

Section 10-1-14 Civil Violations and Citations

A. A civil action for a violation of this Article may be commenced by issuance of a citation.

B. The citation will be substantially in the form as provided by Chapter 6 of this Code. The citation shall advise the responsible party of the violation(s) committed, either by written description of the violation(s) or by designation of the Town Code Section that was violated. Amendments to the citation may be made as authorized by law.

C. Any civil fine or judgment for civil sanctions issued pursuant to this Article shall constitute a lien against the real property of the responsible party that may be perfected by recording a copy of the fine or judgment with the Pinal County Recorder. Any judgment for civil fines or penalties pursuant to this Article may also be collected as any other civil judgment and shall bear interest at the legal rate until paid in full.

Section 10-1-15 <u>Civil Penalties</u>

In addition to any other remedy or penalty provided at law or equity, violation of any provision of this Article shall be a civil violation punishable as provided in Section 1-5-1(A).

Section 10-1-16 <u>Each Day Separate Violation</u>

Each day in which a violation of this Article continues, or the failure to perform any act or duty required by this Article or by the Town Manager continues, shall constitute a separate civil offense.

Section 10-1-17 <u>Habitual Offenders</u>

A. A person who commits a violation of this Chapter after previously having been found responsible for committing two (2) or more civil violations of this Article within a twenty-four (24) month period --- whether by admission, by payment of the fine, by default or by judgment after hearing --- shall be guilty of a class one (1) misdemeanor. The Town Attorney, or a police officer under direction of the Town Attorney, is authorized to file a criminal misdemeanor complaint in the Town or County Court against habitual offenders who violate this Chapter. For purposes of calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.

B. Upon conviction of a violation of this Section, the Court may impose a sentence as set forth in Section 1-5-1(B) of this Code. The Magistrate shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred ($500) dollars for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of any sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.

C. Every action or proceeding against a habitual offender, under this Section, shall be commenced and prosecuted in accordance with the rules of criminal procedure relating to criminal misdemeanors.

Section 10-1-18 <u>Petition For Judicial Abatement</u>

In addition to any civil sanction or criminal penalty, the Town Attorney may petition and the court may in its discretion order the responsible party to correct and abate the violation by a specified date. The

Town may also petition the court for an order allowing the Town to enter the property and correct the violation if the responsible party fails to comply with the court's correction order. Petitions for judicial abatement shall generally follow the requirements of A.R.S. 9-499, to the extent applicable.

Section 10-1-19 Recovery of Town's Costs of Correcting Violation

For a civil or criminal violation of this Article, if the Town corrects a violation pursuant to Section 10-4-18, the Town may petition the court to recover the costs, expenses and attorney's fees which the Town incurred in correcting the violation and in bringing the petition for recovery. If the court finds by a preponderance of the evidence that the Town is entitled to recover, the court may order the defendant to pay to the Town the amount of the costs, expenses and attorney's fees reasonably incurred by the Town and may enter judgment in favor of the Town and against the responsible party in that amount. The court may make payment of the judgment a condition of suspending a portion of a civil sanction.

Section 10-1-20 Administrative Procedure to Abate Public Nuisances

A. Subject to the provisions of subsection B of this Section, the Town Manager shall compel the removal of all litter, dilapidated structures, abandoned or junk vehicles and any other public nuisance as defined herein, by the procedures provided in this Article, or such other procedure authorized by this Code or State law. The procedures established by this Article shall be in addition to, and not exclusive of, all other procedures or remedies established by this Code for the removal of litter, dilapidated buildings or abandoned or junk vehicles, or any other public nuisance.[57]

B. If the dilapidated structure is located within a district zoned for historic preservation of the Town and is considered historically significant, the Town Manager shall coordinate compliance with the provision of this Article with any applicable historical preservation ordinance to insure compliance with all applicable Codes.

Section 10-1-21 Notice to Abate

A. If a person owning or controlling any private premises fails, neglects or refuses to remove or properly dispose of litter, dilapidated structures or abandoned or junk vehicles, or any other public nuisance located on premises owned or controlled by such person, he/she shall be given written notice by the Town Manager to remove same from such premises within thirty (30) days from the date the notice was received or deemed received by him/her.

B. Such notice shall be received not less than thirty (30) days before the date set therein for compliance. The notice shall be deemed received five (5) days after posting same on the property or mailing same as provided in Section 10-4-22 of this Article, whichever is the earlier.

C. Said notice shall contain the date of mailing, name and address of the owner, the address of the property and shall further contain:

57**Editors' Notes**: Statutory reference: A.R.S. 9-499

1. A Statement of what the owner or occupant must do to comply with the notice and this Article.

2. An estimate of the cost of removal by the Town,

3. A Statement that unless the person owning or controlling such premises complies therewith, prior to the time established in the notice, that the Town may, at the expense of the person owning or controlling said premises, perform the necessary work at a cost not to exceed the estimate given in the notice.

4. Inform the owner and occupant, if any, that he/she may appeal in writing to the council within thirty (30) days from the date the notice was mailed to him/her and prior to the date set for compliance, unless abatement has been ordered by a court.

5. A legal description or county assessor's parcel number of the property.

Section 10-1-22 <u>Service of Notice</u>

A. The notice provided in Section 10-4-21 shall be posted on the property and personally served on the owner or person controlling such premises by an enforcement agent of the Town in the manner provided in the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such premises at his/her last known address by certified mail, or the address to which the tax bill for the premises was last mailed. If the owner does not reside on such premises, a duplicate notice shall also be sent to him/her by certified mail at his/her last known address and posted on the premises. Notice shall be deemed received, for all purposes of this Article, five (5) days after depositing same in the mail to the address to which the tax bill was mailed by the County Assessor and posting same on the property. The failure to post on the property shall not be deemed to affect the validity of service of notice unless specifically required by statute.

B. The notice shall be recorded in the office of the Pinal County Recorder and shall be released only if the owner or person in control of the property has complied in full.

Section 10-1-23 <u>Appeal</u>

A. Within said thirty (30) days of the date of mailing of the notice, the owner or person controlling such premise may appeal in writing to the council, or hearing officer if same has been established by the council for that purpose, from the demand for compliance set forth in the notice, unless abatement has been ordered by a court.

B. The written notice of appeal must contain the full name, address and phone number of the person appealing and a Statement of what control he/she has of the property and why compliance is not required or is otherwise inappropriate. The appellant shall have the burden of proof in these regards.

C. The council or hearing officer, if applicable, shall, after receiving the appeal, hear and determine the same and the decision of the council or hearing officer, if applicable, shall be final. The appellant shall receive at least three (3) days notice of the hearing.

D. The Council or Hearing Officer, if applicable, may either affirm or reverse the decision of the Town Manager or modify the scope of work as required in the notice.

E. An appeal shall be conclusively deemed waived if a written notice of appeal is not received by the Town clerk within thirty (30) days of mailing or posting of said notice.

Section 10-1-24 <u>Removal by Town</u>

When any person to whom notice has been given, pursuant to this Article, fails, neglects or refuses to remove from such premises any or all litter, dilapidated structures or abandoned or junk vehicles, or other public nuisance, in a timely manner, the Town Manager is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such premises. 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 premises on which said work was done, including ten (10%) percent 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 premises.

Section 10-1-25 <u>Lien for Removal; Assessment Procedure</u>

A. If the owner or occupant of the property fails to comply with the notice and the Town is required to incur costs for the removal, abatement or enjoining of the hazard to public health and safety created by the litter or dilapidated structure there shall be a written assessment on the property from which the litter or dilapidate structures have been removed, abated or enjoined.

B. The Town Manager shall record the assessment in the Pinal County Recorder's Office. Said assessment shall include the legal description of the property, the date and the amount of the assessment made by the Town and the payment requirements as set forth in Section 10-4-26 of this Article. Copies of the assessment shall also be mailed to the property owner.

C. Assessments made pursuant to this Article shall be prior to and superior to all other liens, obligations, mortgages, or other encumbrances on said property, with the exception of liens for general taxes.

D. The Town Attorney is authorized to take action to obtain a judgment of foreclosure and obtain an order of sale to satisfy any assessment not paid in accordance with the provisions of this Article.

E. The Town Attorney is authorized to bring an action to enforce the assessment in the Superior Court of Pinal County at any time after recording of the assessment. Failure to enforce the assessment by such action shall not affect the validity of the assessment.

F. The assessment recorded in accordance with the provisions of this Article shall be prima facie evidence of the truth of all matters recited in the assessment and of the regularity of all proceedings prior to the recording of the assessment.

Section 10-1-26 <u>Assessments; How Paid; Accrual</u>

A. Assessments that are imposed pursuant to this Article shall run against the property until paid and are due and payable as follows:

   1. Assessments of less than Five Hundred ($500.00) Dollars shall be paid within one (1) year after the assessment is recorded.

   2. Assessments of Five Hundred ($500.00) Dollars or more, but less than One Thousand ($1000.00) Dollars shall be paid within two (2) years after the assessment is recorded.

   3. Assessments of One Thousand ($1000.00) or more, but less than Five Thousand ($5000.00) Dollars, shall be paid within three (3) years after the assessment is recorded.

   4. Assessments of Five Thousand ($5000.00) Dollars or more, but less than Ten Thousand ($10,000) Dollars, shall be paid within six (6) years after the assessment is recorded.

   5. Assessments of Ten Thousand ($10,000.00) or more shall be paid within ten (10) years after the assessment is recorded.

B. Each assessment shall contain a payment schedule which requires payment of the assessment over the above time periods in substantially equal yearly installments.

C. An assessment that is past due shall accrue interest at the legal rate as prescribed by A.R.S. § 44-1201, as amended from time to time.

D. A prior assessment for removal of litter or dilapidated structures as provided in this Article shall not be a bar to a subsequent assessment or assessments for these purposes and any number of assessments on the same lot or tract of land may be enforced in the same action.

Section 10-1-27 <u>Emergency Abatement</u>

A. If a situation presents an imminent hazard, the Town may issue a notice to abate directing the owner, occupant, operator, or agent to immediately take such action as is appropriate to correct or abate the hazard described in the notice. In addition, the Town may act immediately to correct or abate the hazard itself pursuant to Section 10-1-6, or may commence an action in Magistrate or Superior Court to require the owner or occupant to abate the imminent hazard. In the event the Town is unable to contact the owner, occupant, agent or responsible party despite reasonable efforts to do so, the Town's right under this Section to correct or abate the hazard shall continue.

B. The Town may recover its costs incurred in abating an imminent hazard under this Section in the same substantive manner as provided for in this Article to the extent practicable under the circumstances.

Section 10-1-28 <u>Limitation of Liability</u>

This Chapter shall not be construed to require regular inspections of premises by the Town or an obligation to abate any public nuisance as defined herein, reported or unreported within a specific time period. Neither the Town nor any of its officers or officials shall be liable in any manner for injuries or damages which result or are alleged to have resulted from any delay or failure to enforce the provisions of this Article.

Section 10-1-29 <u>Security for Vacant Buildings</u>

This ordinance further defines security procedures designed to help property owners maintain the equity value of their properties and prevent blight by preventing damaging from theft, burglary, weather, garbage and other problems associated with improperly secured vacant buildings. This Article shall describe the only acceptable manner in which vacant buildings shall be heretofore secured within the Town. Securing buildings in any other less effective fashion shall constitute an unacceptable violation of this Article and be abated in accordance with this Article.

Section 10-1-30 <u>Requirement for the Security of Vacant Buildings</u>

A. Disconnect all utilities at the street

    1. Turn off water at the street & drain the plumbing system at its lowest point.

    2. Have the utility company disconnect electricity at the street and remove and cap meters.

    3. Shut off LNG supply at the street. Disconnect and remove LPG tanks and heating oil tanks.

B. Remove all flammables and combustibles from inside and outside

    1. Remove all upholstered furniture, combustible materials and trash from the building, including the basement and attic.

    2. Remove trash and trash containers and combustible furniture from exterior stairwells, porches, fire escapes and outbuildings.

    3. Remove shrubbery and vegetation adjacent to the building that could support or spread a fire.

C. Secure the building to prevent entry/vandalism/weather damage/fire.

    1. Search the entire building to insure that it is unoccupied.

    2. Remove doors and storm windows and place inside.

    3. Post the building according to local law with "No Trespassing" signs.

    4. Construct entrance barriers using the following materials & methods:

D. Materials Needed

1. 1/2" (4 ply) plywood, exterior grade CDX and 2" by 4" by 8' construction grade lumber

2. 3/8" (course thread) by 12" carriage bolts (rounded head on weather side)

3. 3/8"(course thread) construction grade nuts

4. 1/2" (USS Standard) Flat washers with an inside diameter large enough to bypass the wrench neck inside the carriage bolt head so no lift edge is available beneath an installed carriage bolt head.

5. 3/8" (USS Standard) diameter flat washers for installation beneath the nut inside the building

6. 1-5/8" (6d) galvanized or stainless steel ring-shank nails or comparable deck nails.

7. Polycarbonate windows may be used in place of plywood where aesthetic considerations are required to maintain community character as determined by the Town Manager or his/her designee.

E. Security Measures

1. Openings in the basement, first floor doors and windows and any point of entry accessible from a porch, fire escape or other potential climbing point require additional security measures. These openings should be barricaded with plywood, 2x4s braces, carriage bolt sets and nails.

2. Openings that are at least 10' from ground level which are not accessible from a porch, fire escape, roof, or other climbing point can be secured with nails in each brace, and every 12" around the perimeter. For all openings the plywood should be fitted so that it rests snugly against the exterior frame, butting up to the siding on wood frame buildings and up to the brick molding edge on brick buildings. It may be necessary to remove the staff bead so this fit can be flush and tight. If possible carpenters should plywood & stub brace over the edge of the trimmer studs on each window and door casing and meeting the header board.

F. Barrier Procedure

1. Applying barriers is easiest with an inside & outside carpenter with appropriate tools & supplies. The inside carpenter will need a light. Exit is made over a ladder when the last window is boarded.

2. Cut plywood to fit over the window and door openings, flush with outside of the molding/trimmer stud. Avoid creating or leaving a lift surface if possible.

3. Cut the 2x4s to fit the horizontal dimension of the plywood. You will need two exterior and two interior 2x4 braces for each window and three sets for each door.

4. Drill two 3/8" holes in each brace, approximately 1/3 of the length of the brace from the outside edge of the door and window jams.

5. Prior to installation stack both 2x4 braces on the plywood as they will be installed & drilling through all for ease in installation.

6. The two window braces will be placed 1/3 of the distance from the top and the bottom of the window.

7. The three door braces will be placed: one in the center of the doorway and one 1/2 the distance from the center to the top and one 1/2 distance from the center to the bottom of the doorway.

8. Place the plywood over the exterior opening and nail every 12" along the perimeter to the window/door frame.

9. Place the 2x4 braces over the interior and exterior of the door or window.

10. Place the large washer over the carriage bolt and slide the bolt through the holes.

11. Place washer and nut inside and tighten securely. Torque the nut so that it slightly compresses the interior 2x4.

12. Paint said barriers the same color as the structure to minimize the appearance.

Section 10-1-31 <u>Violations – Penalties</u>

A. Any person, firm or corporation who is found to have violated any provision of this Article on premises owned or controlled by said person, firm or corporation is guilty of a civil violation punishable as provided in Section 1-5-1(A), and in addition to any fine which may be imposed, shall be liable for all costs of removal which may be assessed pursuant to this Article.

B. Any person, firm or corporation who shall place or keep any litter, dilapidated structures, or abandoned or junk vehicles upon any private or public premises not owned or under the control of said person, firm or corporation, or who violates any provision of this Article, shall be guilty of a civil violation punishable as provided in Section 1-5-1(A) 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 Article for the removal of said litter or dilapidated structure.

CHAPTER 11 – PARKS, LIBRARY AND SENIOR CENTER

Article 11-1 PARKS AND RECREATION FACILITIES

Section 11-1-1 Parks and Recreation
Section 11-1-2 Parks Development, Operation and Maintenance
Section 11-1-3 Responsibilities of the Parks & Recreation Division
Section 11-1-4 Employees and Equipment

Section 11-1-1 Parks and Recreation Division Established

There is hereby created the Division of Parks and Recreation within the Public Works Department. All employees assigned to the the division shall perform their duties subject to the supervision of the Public Works Director who shall supervise the Division in accordance with any applicable Personnel Rules, and shall exercise such powers and perform such functions as are required by this Chapter.[58]

Section 11-1-2 Parks Development, Operation and Maintenance

The Parks and Recreation Division functions include, but shall not be limited to: (1) the operation & maintenance of existing parks and recreation facilities, and (1) the operation of existing parks programs and the development of new parks programs and facilities. These functions shall be as accomplished as the Council may from time to time provide.

Section 11-1-3 Responsibilities of Parks & Recreation Division

The Parks and Recreation Division shall:

A. Administer, maintain and operate existing recreation, pool and park areas, facilities and programs and plan for the acquisition, development and operation of proposed facilities and programs in accordance with policies set by the Council.

B. Prepare a proposed annual budget for presentation to the Town Manager and Council.

C. Inform the general public of the services and facilities being provided by parks and recreation; address professional, civic and lay groups on recreational subjects; solicit suggestions from the general public on increasing the effectiveness of the recreation program; cooperate with governmental and voluntary organizations and agencies in solving of recreation problems; provide, upon request, assistance of a technical nature to community agencies and organizations on problems related to recreation and park facilities and programs.

D. Assist community organizations in the promotion of recreational activities; conduct studies of local conditions and the need for recreation services and facilities; assist with the recruitment of professional recreation personnel and volunteer leaders.

58**Editors' Notes**: State law reference – parks authorized A.R.S. 9-494

E. Make recommendations to the Town Manager and Council, and community organizations concerning the expenditure of public funds for recreation and parks, acquisitions, design and development of recreation facilities and areas.

F. Propose such rules and regulations to the Manager and Council as may be deemed necessary for the conduct of persons in the parks and other recreation facilities and upon adoption thereof to enforce said rules and regulations.

G. Perform other duties as may be assigned.

Section 11-1-4 <u>Employees and Equipment</u>

Manpower and equipment necessary to perform the functions set forth in this Article shall be as provided by the Manager or Council from time to time.

Article 11-2 TOWN PARK RULES AND REGULATIONS

Section 11-2-1 Definitions
Section 11-2-2 Park Hours
Section 11-2-3 Town Permit for Consumption of Alcohol in Town Parks
Section 11-2-4 Compliance with Rules and Regulations
Section 11-2-5 Use of Facilities, Payment of Fees
Section 11-2-6 Fires
Section 11-2-7 Vehicles, Speed Limits, and Parking
Section 11-2-8 Rubbish and Litter
Section 11-2-9 Pets and Other Animals
Section 11-2-10 Fireworks and
Explosives Section 11-2-11 Soliciting
Section 11-2-12 Noise and Nuisance
Section 11-2-13 Golfing
Section 11-2-14 Special Event Permits
Section 11-2-15 Reservation of Parks and Recreational Facilities
Section 11-2-16 Vandalism
Section 11-2-17 Miscellaneous
Section 11-2-18 Violation - Penalty

Section 11-2-1 Definitions

In this Article, unless the context otherwise requires:

A. Spirituous Liquor or Alcohol: Includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, port, ale, beer, any malt liquor, malt beverage, or compound mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquid mixture or preparation, whether patented or otherwise, which contains alcohol and produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one per cent of alcohol by volume.

B. Division: Means the Town of Superior Parks and Recreation Division of the Public Works Department.

C. Parks: Means Roosevelt Park, Besich Park, U.S. Highway 60 Park, the Community Swimming Pool and Aquatic Center, the Bob Jones Food Court, and any baseball field, softball field, other fields, trails or any other Town park or recreation area or rest center owned or controlled by the Town of Superior or other additional property as may be designated by the Mayor and Council.

D. Permittee: Means any person to whom a permit or permission for use of park or recreational facilities has been issued by the Town.

E. Permit: Means authority issued by the director granting a named person or persons permission to perform a specified activity in a Parks and Recreation Division facility or any portion thereof.

F. Camping: Means the placement of any tent, temporary shelter or structure, blanket, cloth, or other sleeping implements on park property for the purpose of protection from the elements for any person remaining in the park.

G. Director: means the Town Manager or designee.

H. License: means a permit for more than a one-time event.

I. Pollution: means the contamination or other alteration of physical, chemical or biological properties of park waters, including change in temperature, taste, color, turbidity or odor of the waters, or discharge of any liquid, gaseous, solid radioactive or other substances into any park waters as will or is likely to create a public nuisance or render park waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, recreational or other beneficial uses, or to wild animals, birds, fish or other aquatic life.

J. Reservation: means authority issued by the Director for named person(s) to use a Parks and Recreation Division facility or any portion thereof for a specified time and purpose.

K. Resident: is hereby defined as any person who is in possession of a valid proof of residency within the Town of Superior limits pursuant to the rules and regulations established by the Director of Parks and Recreation. Person(s) qualified as residents as set forth shall be permitted to use any Town-owned Parks and Recreation Division facility and fee based programs upon payment of the resident fee, proper identification as determined by the Director of Parks and Recreation.

L. Vehicle: means any wheeled conveyance, whether motor-powered, animal-drawn, or personally propelled, including any trailer in tow of any size, kind, or description. Not included are baby carriages, vehicles in the service of the Town of Superior, and vehicles authorized and properly equipped for emergency duties.

Section 11-2-2 Town Park Hours of Operation

A. Town parks shall be open daily at 5:00 am to the public but must be vacated by 10:00 pm or in accordance with Town Curfew unless written permission is granted by the Parks Director or designee.

B. No person shall occupy or be present in any park during the hours it is not open to the public.

C. Town personnel, police officers, or other persons with special permits from the Parks Director or designee who are conducting town business are not restricted.

Section 11-2-3 Town Permit for Consumption of Alcohol in Town Parks

A. A non-transferable permit shall be required from the Town prior to the consumption of spirituous liquor within the boundaries of any Town park or property.

B. Permits applications shall be available at Town Hall for a fee as established by Resolution of the Council from time to time and may be issued upon receipt of a completed application requesting such permit which application shall contain the applicant's name, address, telephone number, age and responsible party. The police and public works director shall be notified of said applications. The Town may deny said permit for good cause shown.

C. Such permit shall incorporate such terms and conditions which will reasonably safeguard public safety and property. The permit holder must retain the permit in his or her possession at all times on Town property and shall make same available for inspection upon request by Town officials and Police.

D. Use of glass containers is prohibited within the boundaries of any Town park.

E. The permit may be summarily revoked for failure to follow any applicable rule or regulation.

F. The permit holder shall be responsible for insuring that anyone consuming alcohol is of legal age and shall be responsible for any and all damages to Town property.

Section 11-2-4 <u>Compliance with Rules and Regulations</u>

Permission to enter, occupy, use or otherwise utilize any area, facility, roadway, trail, open space or waterway on or within the boundaries of any park or recreation area under control of the Town shall be conditioned upon compliance with all laws, rules, regulations, and orders of the Town governing such area, and any person violating such laws, rules, regulations and orders may be cited. Such person may be required to immediately leave the park or recreation area or any portion thereof.

Section 11-2-5 <u>Use of Facilities, Payment of Fees</u>

No person shall use or occupy facilities in the park system for which a use fee has been lawfully established unless the fee has been paid to the Town. Permits may be obtained at Town Hall.

Section 11-2-6 <u>Fires</u>

A. No authorization will be required for outdoor fires in designated park sites where such fires are built in a permanent barbecue, outdoor fireplace, incinerator, or grill, except where prohibited by proclamation or order of the Fire Chief, or designee.

B. No person shall build, ignite, or maintain any outdoor fires of any kind or character, or for any purpose whatsoever in or upon any hazardous fire area, except by the authority of the Fire Chief or designee. Such an authorization shall incorporate such terms and conditions which will reasonably safeguard public safety and property. Regardless of permit, however, no person shall build, ignite, or maintain any outdoor fire in or upon any hazardous fire area, as determined by the Fire Chief under the following conditions:

1. When any high wind is blowing.

2. When there is no person aged eighteen (18) or over present at all times to watch and who is capable of tending such fire.

3. Such times as public announcement is made that there shall be no open burning.

4. When or where fires are prohibited by the adopted fire code or proclamation.

C. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, charcoal, or coals, or other flammable or flaming materials within any park area.

Section 11-2-7 <u>Vehicles, Speed Limits, and Parking</u>

A. Motorized vehicles, including motorcycles and off-road vehicles, shall be operated only on maintained roadways at a speed not greater than fifteen (15) miles per hour, except as otherwise provided and posted, and in all cases the operator shall comply with the Arizona Motor Vehicle Code, as provided under Title 28, A.R.S., and while within the boundaries of any park. Only licensed vehicles will be allowed within park boundaries. The parks and recreation Manager may further restrict and post certain areas in the park system to protect life and property.

B. Vehicles parked in any unauthorized parking area, or vehicles parked in such a manner as to pose a danger to others, may be cited and/or are removed at owner's expense.

C. No unauthorized vehicles shall be allowed or operated on any Town hiking trails.

Section 11-2-8 <u>Rubbish and Litter</u>

A. No person shall dump, deposit or leave any bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash unless placed in the proper receptacles where provided; where receptacles are not so provided, all such rubbish or waste shall be carried for its presence and properly disposed of elsewhere.

B. Draining or dumping wastes or refuse from any trailer, camper or other vehicle is prohibited.

C. Using public park refuse containers to dispose of household or commercial garbage brought as such from private property is prohibited.

D. No person shall use any permanent barbecue, portable barbecue, outdoor fireplace or grill for the disposal of rubbish, trash, or combustible waste material.

E. No person shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in a park any substance, matter or thing, liquid or solid, which may result in the pollution of park waters.

Section 11-2-9 <u>Pets and Other Animals</u>

Dogs, cats, and other domestic pets shall be kept under physical restraint or on a leash not longer

than six (6) feet in length while in the confines of any park or recreational facility, except such areas as are specifically posted as a dog park. In the interest of public health and safety, the Town may designate, and post certain areas as closed to all Pets. Riding horses shall be confined to areas specifically designated for riding purposes. Horses shall be prohibited in ball fields and parks. No person in a park shall permit to be deposited and allow to remain in a park any untreated excreta of a dog, domestic animal, or pet, except in those places which may be designated for such purposes.

Section 11-2-10 <u>Fireworks and Explosives</u>

No person shall possess fireworks or explosives or devices for such use of any kind within the park system except under special permit for fireworks display issued by the Parks and Recreation Director. This section is subject to compliance with all applicable municipal, county, state or federal ordinances, rules, and regulations.

Section 11-2-11 <u>Soliciting</u>

No person in a park shall:

A. Merchandising advertise and signs. Utilize any park property for any commercial or political purpose, except by permit issued by the Director or designee.

B. Vending and peddling: expose or offer for sale any article or thing; station or placed any stand, cart or vehicle for the transportation, sale or display of any article or thing. A regularly licensed concessionaire acting by and under the authority and regulation of the Director, and vendors of food and refreshments who are in possession of a current vendor's permit issued by the County Health Department are excepted from this provision.

C. Advertising: announce, advertise, or call the public attention in any way to any article or service for sale or hire, except by such regulations as may be designated by the Director.

D. Signs: paste, glue, tack, or otherwise post any sign, placard, advertisement, or inscription.

E. Handbills: distribute or attempt to distribute business or commercial literature to persons or place them upon vehicles.

Section 11-2-12 <u>Noise and Nuisance</u>

A. No person shall cause or permit any loud noise or sound which creates a nuisance. For the purpose of this Section, a nuisance by noise shall be defined as any sound which in volume or character would reasonably tend to disturb the peace of people who are legally occupying other portions of the park or residents of neighborhoods adjacent to the park.

B. Upon complaint by any person, a police officer shall investigate and determine if a noise nuisance exists as defined above. If the officer determines that a noise nuisance does exist, he/she shall inform the person and order him/her to correct the situation to the extent that the nuisance is abated. If the person fails to abate the nuisance within a reasonable time

and/or further complaints are received, the police officer may, in his/her discretion, immediately cancel the permit or permission to enter and order the person to vacate the premises.

C. No person shall use or cause to be used a loudspeaker system or any other means of the mass amplification of sound without a special permit issued by the Town.

D. No person shall interfere with permittees, disturb, or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit license or reservation.

Section 11-2-13 Golfing

No person in a park shall use any portion of the park for golfing purposes or make use of any golf club or golf ball in any park.

Section 11-2-14 Special Events- Requirements for Holding

A. Special events, as defined in Article 8-3, characterized as public spectator attractions, are prohibited except upon a special event permit issued by the Town. Such permit shall cause the minimum possible interference with use of the area by the general public.

B. Applications for special events permits shall be as provided in Section Article 8-3.

Section 11-2-15 Reservation of Parks and Recreational Facilities

Reservation for the use of any fee area for a purpose that is not classified as a special event under Article 8-4, may be obtained by completing a reservation application form and by payment of the applicable fee at Town Hall. Compliance with all applicable rules shall be an implied term and condition of such reservation and use.

Section 11-2-16 Vandalism

A. No person shall disfigure or remove buildings, structures, or facilities. Willfully mark, deface, disfigure, injure, destroy, tamper with, or displace or remove any building, bridge, table, bench, fireplace, railing, paving or paving material, waterline or other public utility or parts or appurtenances thereof; sign, notice or placard whether temporary or permanent; monument, stake, post or other boundary marker; or other structure or equipment, facility or park property or appurtenances whatsoever, either real or personal.

B. No person shall dig, remove, or damage soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make nay excavation by tool, equipment, blasting, or other means or agency.

Section 11-2-17 Miscellaneous

A. Facilities must be vacated by 10:00 p.m. or in accordance with Town curfew unless written permission is granted by the Town.

B. No apparatus or equipment shall be moved into a Town facility without advance written permission from the Town.

C. No overnight parking, camping, or storing personal items allowed in any Town park or facility.

D. No person shall enter any restroom or washroom to engage in any unlawful act, bathing, or to use the facilities for other than their primary purpose; or use the restrooms and washrooms designated for the opposite sex, unless under six (6) years of age.

E. No person shall hunt, trap, or pursue wildlife at any time or shoot from or into park areas.

F. No person shall emit, eject or cause to be deposited any excreta of the human body, except in those places designated for such purposes.

G. No person shall enter or remain in any park or park facility, or place or leave any items or objects in any park or park facility, where such park or facility is posted as "Closed to the Public", or posted "No Trespassing"; or use or abet the use of any park area or facility in violation of posted notices, unless otherwise expressly permitted by the Director.

H. No person shall gain admission to, attempt admission to, to make use of park facilities for which a charge is made without paying the fixed charge or admission, unless otherwise authorized by the Director.

I. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across park land.

Section 11-2-18 <u>Violation – Penalty</u>

It shall be unlawful and a civil violation punishable as provided in Section 1-5-1(A) for any person to enter, remain upon or use any park, library, building, property or cemetery or facilities associated with same in violation of any of the provisions contained in this Code.

Article 11-3 LIBRARY

Section 11-3-1 Creation
Section 11-3-2 Rules and Regulations
Section 11-3-3 Librarian
Section 11-3-4 Duties of Librarian
Section 11-3-5 Damage to Library - Failure to Return Penalty - Optional Action

Section 11-3-1 Creation

There is hereby created a Library Department of the Town which shall provide such services as are authorized by the Council from time to time.

Section 11-3-2 Rules and Regulations

The Library Department shall be operated and managed in accordance, with such departmental regulations as may from time to time be recommended by the Board of Trustees and as enacted by the Town Council.

Section 11-3-3 Librarian

A. The position of Librarian is hereby created. The librarian, as the chief administrative officer of the Library Department, is responsible for planning, directing and coordinating the activities of the library. Work is performed under the general direction of the Town Manager.

B. The librarian shall be appointed by the Town Manager.

C. The librarian shall be qualified by knowledge or training in library sciences.

Section 11-3-6 Duties of Librarian

The Librarian shall:

A. Serve as chief administrative officer of the Library.

B. Plan and direct all phases of the operation of the library system.

C. Prepare and justify the annual budget estimate of the library system.

D. Implement and administer grants and contracts for the benefit of senior

E. Perform other duties as specified by law, Manager or Council.

Section 11-3-7 Damage to Library - Failure to Return Penalty

A. It shall be unlawful to damage or injure in any way the library, its property or books. A person who violates these Sections shall be guilty of a civil violation punishable as provided in Section 1-5-1(A) of this code.

B. It shall be unlawful to fail to return a book or other library property (material) by the due date designated at the time of its loan. Each day a person fails to return a material, following ten (10) days written notice, shall be a separate offense punishable as provided by Resolution of the Council from time to time.

Article 11-4 SENIOR CENTER

Section 11-4-1 Senior Center - Administration
Section 11-4-2 Powers and Duties of Senior Center Director

Section 11-4-1 Senior Center – Administration

There is hereby created the position of Senior Center Director appointed by the Town Manager.

Section 11-4-2 Powers and Duties of the Senior Center Director

The powers and duties of the Senior Center Director include:

A. Administer, maintain and operate existing senior center facilities and programs and plan for the acquisition, development and operation of proposed facilities and programs in accordance with policies set by the Council.

B. Assist in the preparation of a proposed annual budget for presentation to the Council and Town Manager.

C. Inform the general public of the services and facilities being provided by the senior center; address professional, civic and lay groups on senior issues; solicit suggestions from the general public on increasing the effectiveness of the senior center; cooperate with governmental and voluntary organizations and agencies in solving of senior center issues; provide, upon request, assistance of a technical nature to community agencies and organizations on problems related to senior center facilities and programs

D. Assist community organizations in the promotion of activities for seniors; conduct studies of local conditions and the need for services and facilities for senior citizens; assist with the recruitment of professional personnel and volunteer leaders.

E. Make recommendations to the Town Manager, Council, and community organizations concerning the expenditure of public funds for the senior center, acquisitions, design and development of facilities and programs for senior citizens.

F. Propose such rules and regulations to the Council as may be deemed necessary for the conduct of persons in the senior center facilities and upon adoption thereof to enforce said rules and regulations.

G. Implement and administer grants and contracts for the benefit of senior citizens.

H. Perform other duties as may be assigned.

CHAPTER 12 - BUILDING

Article 12-1 <u>BUILDING SAFETY CODE</u>

Section 12-1-1 Adoption of Building Codes
Section 12-1-2 Rules and Definitions
Section 12-1-3 Local Amendments to Uniform Codes

Section 12-1-1 <u>Adoption of Building Codes</u>

A. The following uniform Codes are adopted as the Building Safety Code for the Town of Superior. Any reference to "International Code" herein includes the Codes listed herein

1. <u>International Building Code</u>, (2018 edition), together with the following listed Appendix Chapters and thereto, as published by the International Code Council (ICC):

   Appendix I - Patio Covers
   Appendix J – Grading
   Appendix K – ICC Electrical Code

2. <u>International Energy Conservation Code</u> (2018 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC)

3. <u>International Fire Code</u> (2018 edition), together with the following listed Appendix Chapters and thereto, as published by the International Code Council (ICC):

   Appendix A - Board of Appeals
   Appendix B - Fire Flow Requirements
   Appendix C - Fire Hydrant Location and Distribution
   Appendix D - Fire Apparatus Access Road
   Appendix E - Hazard Categories
   Appendix F - Hazard Ranking
   Appendix G - Cryogenic Fluids- Weight and Volume equivalents
   Appendix H – Hazardous Materials Management Plan
   Appendix I - Fire Protection System
   Appendix J – Building Information Sign
   Appendix K – Construction Requirements for Ambulatory Care Facilities
   Appendix N - Indoor Trace show and Exhibition

4. <u>International Fuel Gas Code</u>, (2018 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC)

5. <u>International Residential Code</u>, (2018 edition), together with the following listed Appendix Chapters and thereto, as published by the International Code Council (ICC):

   Appendix A - Sizing and Capacities of Gas Piping

Appendix B - Sizing of Venting Systems Serving Appliances Equipped with Draft Hoods, Category I Appliances, and Appliances Listed for Use and Type B Vents
Appendix C - Exit Terminal of Mechanical Draft and Direct-Vent Venting Systems
Appendix H - Patio Covers
Appendix J - Existing Buildings and Structures
Appendix N – Venting Methods
Appendix P – Sizing Water Piping
Appendix S – Straw bale Construction

6. International Mechanical Code, (2018 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC)

7. International Plumbing Code, (2018 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC)

8. International Property Maintenance Code, (2018 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC)

9. National Electrical Code (2017 edition), together with the following listed Appendix Chapters and thereto, published by National Fire Protection Association:

   Annex H Administration and Enforcement

10. Uniform Housing Code (1994 Edition), together with its supplements, if any, published by the International Conference of Building officials.

11. International Swimming Pool and Spa Code (2018 Edition), together with its supplements, if any, published by the International Association of Plumbing and Mechanical officials.

12. Manufactured Home and Factory Built Building Installation Standards (Latest Edition), together with its supplements, if any, published by the Arizona Secretary of State.

B. This Chapter 12 shall be known as the Building Safety Code of the Town of Superior. Each of the Codes described in this Article are hereby incorporated by this reference and made a part of this chapter as if fully set forth herein. At least three (3) copies of said Codes shall be filed in the office of the Town Clerk and made available for public use and inspection.

Section 12-1-2 Rules and Definitions

A. The following terms utilized in this Chapter shall be defined as provided in the Codes adopted pursuant to Article 12-1-1 of this Chapter, except as hereinafter provided:

   1. The terms "Town" or "Town" or "Municipality" as used in the Codes shall mean the incorporated area of the Town of Superior.

   2. The terms "Mayor", "Appointing Authority", “Governing Body”, "Commission", or "Town Council" as used in the adopted Codes shall mean the Mayor and Council of the Town of Superior.

3. The terms "Administrative Authority", "Building official", "Chief", or "Administrator", as used in the Codes, shall mean the Building Official of the Town of Superior.

4. The terms "Other Code" or "Other Codes" as used in the International Codes shall mean other Code or Codes adopted by the Town of Superior or the State of Arizona, if applicable. If there should be a conflict between any such Codes, the more restrictive shall prevail.

5. The term "Appeals Board" shall mean the Council of the Town of Superior.

Article 12-2 ADMINISTRATION

Section 12-2-1 Permit or License
Section 12-2-2 Building Official
Section 12-2-3 Rules and Regulations

Section 12-2-1 Permit or License

All officials and public employees of the Town vested with the duty or authority to issue permits or licenses shall comply with the provisions of this Chapter. No permit or license for any use, building or purpose shall be issued in conflict with the provisions of this Chapter. Any permit or license issued in conflict with the provisions of this Chapter shall be null and void and of no effect whatsoever and no rights therein shall vest.

Section 12-2-2 Building Official

The Town Manager shall appoint the Building Official.

Section 12-2-3 Rules and Regulations

The Building Official may recommend rules and regulations to the Council from time to time for adoption in the interest or public safety, health and general welfare, consistent with and to implement the provisions of this chapter and to secure the intent thereof. No such rules shall have the effect of waiving technical provisions specifically provided in the Codes, or of violating accepted engineering practice involving public safety.

Article 12-3 BUILDING PERMITS

Section 12-3-1 Issuance of Permits
Section 12-3-2 Record Keeping
Section 12-3-3 Fees by Resolution
Section 12-3-4 Exemptions for Single Family Residential Dwellings and Manufactured/Mobile Homes

Section 12-3-1 Issuance of Permits

Building permits shall be issued only upon approval of submitted plans and specifications. With each application for a building permit, and also when otherwise required by the Building Official for enforcement of any provision of this Code, two (2) sets of specifications and plans shall be submitted. The Building Official may, where the complexity of the plans so warrant, require plans and specifications to be prepared and signed by an engineer or architect licensed by the State to practice as such. He/she may further require that plans for new construction indicate existing and finished grade elevations based on Town data with existing and finished drainage flow patterns in areas subject to flooding.

Section 12-3-2 Record Keeping

The Building Official shall keep careful and comprehensive records of applications for permits, permits issued, inspections made, reports rendered and of notices or orders issued. Further, the Building Official shall retain on file copies of all papers in connection with building work for such time as may be required by the state records retention law.

Section 12-3-3 Fees by Resolution

The Council shall, from time to time, by resolution, adopt or modify administrative fees arising under this Chapter

Article 12-3-4 Exemptions for Single Family Residential Dwellings and Manufactured/Mobile Homes

A. Building Permit Required

1. It shall be unlawful to erect, construct, reconstruct, alter or use any structure or building without first obtaining a building permit from the Town of Superior; except that no building/use permit shall be required for any repairs or improvements of a value not exceeding $1,500 dollars (market value labor and materials or actual receipts for cost of materials can be provided) except that those items listed in this section below are completely exempted from permit requirements for single family residential dwellings and manufactured/mobile homes.

2. For non-residential uses a permit is required regardless of the dollar value of the improvement when there are applicable building code requirements.

3. For the purpose of determining the value of any such repair, alterations, or improvements, the normal retail value of materials and labor performed shall be used. Even though no

permit is required for repairs or improvements having a certain value or listed below, such repairs, improvements, or alterations shall comply with all other provisions of IRC2018

4. Re-establishment of a discontinued non-residential use shall not require a permit for the same use, provided that the discontinued use was established through the permitting process in place at the time of establishment, and that no new construction is proposed.

B. Work Exempt from permit for Single Family Residential Dwelling and Manufactured/Mobile Home Only

1. Re-roofing (when no structural changes are proposed or any reinforcement is required to add heavier roofing materials), re-siding or replacement of exterior trim.

2. Replacing or adding gutters or downspouts.

3. Replacing or adding soffit, gable, or roof ventilation.

4. Replacing existing windows or doors with no structural changes.

5. Decks less than 30-inches in height above the lowest grade within 5-feet of deck edge.

6. Replacing like for like or repairing existing plumbing fixtures such as toilet, tub, sink, garbage disposal, water heater, or faucets.

7. Replacing existing appliances or internal light fixtures.

8. Replacing like for like or repairing existing furnace, air-conditioner, cooler, heat pump, or heater.

9. General landscaping including lawn sprinkler systems, subject to water conservation requirements, and retaining walls up to 4-feet in total height.

10. Installation of low-voltage wiring for security alarm systems.

11. Flooring of wood, vinyl, ceramic, stone, masonry or carpeting.

12. Installation or removal of non-structural interior wall partitions if no utilities are involved.

13. Adding or replacing insulation in walls, floors, or ceilings.

14. Wood, concrete block or wire fences up to six-feet high. If any of the following applies a permit is required:

    a) Located on a corner lot and greater than 3 feet in height;

    b) Located within a designated FEMA Flood Hazard Area;

    c) Located within a designated wash.

15. Painting, interior or exterior, and wallpapering.

16. Concrete walkways, not in Town right-of-way, and patio slabs.

17. Replacing cabinets or countertops.

18. Window awnings supported by an exterior wall which do not project more than 54-inches.

19. Swings and other playground equipment accessory to a single family dwelling.

20. Water Tanks supported directly on grade if the capacity does not exceed 5,000-gallons and the ratio of height to diameter or width does not exceed 2:1.

21. One-story detached accessory structures provided the floor area does not exceed 200-square feet and has no utilities. Floodplain regulations may apply.

22. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

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

24. Oil derricks.

25. Electrical:

    a) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

    b) Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions.

    c) Satellite dishes and residential antennas for wireless communications.

    d) Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

    e) Reinstallation of branch circuit overcurrent devices of the required capacity in the same location.

    f) Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.

26. Gas:

    a) Portable heating appliance.

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

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

27. Mechanical:

a) Portable heating appliance.

b) Portable ventilation equipment.

c) Portable cooling unit.

d) Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

e) Replacement of any part that does not alter its approval or make it unsafe.
f) Portable evaporative cooler.

g) Self-contained refrigeration system containing 10 pounds (4.5 kg) or less of refrigerant and actuated by motors of 1horsepower (746 W) or less.

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

28. Plumbing:

a) The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall *not* be considered as new work and *a permit* shall *not* be required.

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

C. Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application for the Inspections Services *only* shall be submitted within the next working business day to the building official.

D. It is unlawful to erect, construct, reconstruct, maintain, use, or change the use of any land in any Zoning District in violation of any regulation or any provision of this or any ordinance pertaining thereto, and any such violation constitutes a public nuisance.

E. A developer shall not circumvent the permit requirements of this article by making improvements, repairs or alterations which constitute a complete unit through piecemeal or phased construction with the intent to avoid these permit requirements.

F. If it is determined an inspection required for a otherwise exempted project, the applicant shall only be charged for any necessary inspections and plan reviews.

Article 12-4 FAIR HOUSING

Section 12-4-1 Declaration of Policy
Section 12-4-2 Definitions
Section 12-4-3 Enforcement Committee
Section 12-4-4 Unlawful Practice
Section 12-4-5 Exceptions
Section 12-4-6 Procedure
Section 12-4-7 Other Remedies
Section 12-4-8 Penalties
Section 12-4-9 Administration Provisions
Section 12-4-10 Conciliation Agreement Violations
Section 12-4-11 Power of Subpoena

Section 12-4-1 Declaration of Policy

It is hereby declared to be the policy of the Town in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, sex, national origin, disability, familial status, or place of birth and, to that end, to prohibit discrimination in housing by any person.

Section 12-4-2 Definitions

Unless otherwise stated, the following words and phrases shall, for the purposes of this Article, have the following meanings:

A. Real Property: Includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.

B. Discrimination or Discriminatory Housing Practice: Any difference in treatment based upon race, color, religion, sex, national origin, disability, familial status or place of birth; or any act that is unlawful under this Article.

C. Person: Shall include any individual and a group of any one or more persons such as but not limited to, labor unions, joint apprenticeship committees, partnerships, associations, corporations, unincorporated organization, mutual companies, joint stock companies, trusts, legal representative, trustees in bankruptcy, receivers, any individuals acting in a financial or representative capacity either appointed by a court or otherwise, the Town or any of its agencies, and any other legal governmental or commercial entity, as well as a natural person or persons. The term persons, when applied to any of the foregoing, include members, representatives, officers and directors, agents and employees.

D. Owner: Includes a lessee, sub lessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

E. Financial Institution: Includes any person, as defined herein, engaged in the business of lending money or guaranteeing losses.

F. Real Estate Broker or Real Estate Salesperson: Includes any individual, whether licensed or not, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, exchanges, rents, or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds himself/herself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he/she undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or any individual employed by or acting on behalf of any of these.

G. Housing Accommodation or Dwelling:

1. Any parcel or parcels of real property or lands, or any interest therein, whether contiguous or noncontiguous, located in the Town of Superior used for the building or the placing of one or more housing or rooming units, owned by, or otherwise subject to the control of, one or more persons;

2. Any real property, or any interest therein, located in the Town of Superior;

3. Any single family dwelling or multiple family dwelling or trailer house or trailer space any portion thereof, including a housing unit or a rooming unit, or any interest therein, located in the Town of Superior, which is used or occupied, or intended, arranged, assigned or designated to be used or occupied, as the home, home site, residence or sleeping place of one or more persons;

4. A single room, suite of rooms or apartments with or without cooking and kitchen facilities, occupied, or intended for occupancy as living quarters, by a person, by a family or by a group of persons living together.

Section 12-4-3 Enforcement Committee

A. The Town of Superior, hereby establishes an ad hoc Housing Committee appointed by the Mayor and Town Council, which shall consist of not less than three (3) or more than five (5) members.

B. Each Committee member shall serve for a term of one (1) year and until his/her successor is appointed. One of the members of the Committee shall be elected by the members of such Committee to be Chair of the Committee.

C. All communications authorized or required to be lodged with a committee shall be furnished to the Chair of Committee, or, in his/her absence, any one of the Committee members.

D. Any orders or findings issued by the Committee may be over the signature of any one of the members.

E. A quorum of the Committee shall be necessary for the conducting of any vote. A quorum shall consist of a majority of the members of the Committee.

F. A majority of the full Committee shall be required on any vote taken for any proposed action to be effective.

G. All findings or orders of the Committee shall be filed with the Town Attorney's Office and upon such filing shall be deemed public records of the Town.

H. This Committee shall be considered to be a sub-committee of the Town of Superior and shall comply with the State of Arizona open meeting laws.

Section 12-4-4 <u>Unlawful Practice</u>

In connection with any of the transactions set forth in this Section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any housing accommodation, it shall be unlawful within the Town of Superior for a person, owner, financial institution, real estate broker or real estate salesperson, lessees, agents, trustees, mortgages, financial institutions, title companies or insurance companies, or any representative of the above, to:

A. Refuse to sell, purchase, exchange, rent or lease, or deny to or withhold any housing accommodation from a person because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;

B. To discriminate against a person in the terms, conditions or privileges of the sale, purchase, exchange, rental or lease of any housing accommodation, or in the furnishing of facilities of services in connection therewith because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;

C. To refuse to receive or transmit a bona fide offer to sell, purchase, exchange, rent or lease any housing accommodation from or to a person because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;

D. To refuse to negotiate for the sale, purchase, exchange, rental or lease of any housing accommodation to a person because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;

E. To represent to a person that any housing accommodation is not available for inspection, sale, purchase, exchange, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;

F. To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form or application for the sale, purchase, rental, exchange, rental, lease, or other transfers of interest in housing, or the extension of credit, loans, insurance or other services relating to the transfer of interest of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, exchange, rental, lease or other

transfers of interest in housing, or the extension of credit, loans, insurance or other services relating to the transfer of interest of any housing accommodation, which expresses directly or indirectly any limitation, specification or discrimination as to race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;

G. To offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, exchange, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, exchange, rental or lease, or in the furnishing of facilities or services in connection therewith;

H. To induce directly or indirectly, or attempt to induce indirectly or directly, the sale, purchase, exchange, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth in the area to be affected by such sale, purchase, exchange, rental or lease will or may result in either:

1. The lowering of property values in the area; or

2. An increase in criminal or antisocial behavior in the area; or

3. A decline in the quality of schools serving the area.

I. To make any misrepresentations concerning the listing for sale, purchase, exchange, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, exchange, rental or lease of any housing accommodation in any area in the Town of Superior for the purpose of including or attempting to induce any such listing or any of the above transactions; or

J. To engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, exchange, rental or lease, or the listing for any of the above, of any housing accommodation; or

K. To retaliate or discriminate in any manner against a person or persons because they have opposed a practice declared unlawful by this Article, or because they have filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this ordinance; or

L. To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this Article; or to obstruct or prevent any person from complying with the provisions of this Article; or any order issued thereunder;

M. By canvassing, to commit any unlawful practices prohibited by this Article;

N. Otherwise to deny to, or withhold any housing accommodation from a person because of their race, color, religion, ancestry, national origin, disability, familial status, or place of birth;

O. For any bank, building and loan 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 or persons applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against them in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth of such person or of any person associated with them in connection with such loan or other financial assistance or the purpose of such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or give;

P. To deny any qualified 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 them in the terms or conditions of such access, membership or participation, on account of race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth.

Q. For any person to go upon the premises of another, for the purpose of abusing the occupants thereof by the use of language or conduct which reflects unfavorable on the occupant's race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth.

1. The above Subsection "Q" shall not be a violation unless and until the Town Attorney has sent a prior written notice to the person charged with going upon the property of another and committing the above described acts, said notice advising the offending party that she/he is unwelcome on the occupant's property and that she/he may be charged under this Subsection if she/he, after receipt of the notice, commits acts which are in violation of this Subsection.

2. This Subsection does not preclude the offending party from being charged with a violation of any offense that she/he might have committed not covered herein merely because the offending party did not receive written notice.

Section 12-4-5 <u>Exceptions</u>

This Article shall not apply to:

A. A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color, sex, ancestry, national origin, disability, familial status, or place of birth.

B. A private club, not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.

C. 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 not the most recent resident of such house prior to such sale, the examination granted by this sub-Section shall apply only with respect to one such sale within any twenty four (24) month period. Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his/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, the sale or rental of any such single family house shall be excepted from the application of this ordinance only if such house is sold or rented:

1. 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

2. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United State Code Section 3604(c) or of Section 12-5-4 of this Article; but nothing in this provision shall prohibit the use of attorney's escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

D. 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/her residence.

Section 12-4-6 <u>Procedure</u>

A. Any person aggrieved by an unlawful practice prohibited by this Article may file a complaint with the Town Attorney, or the Housing Committee, within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than sixty (60) days after the alleged unlawful practice occurred. The Town Attorney, or the Housing Committee, or their duly authorized representative shall investigate each complaint and attempt to resolve each complaint. If the finding is made that an unlawful practice has been or is being committed, the Town Attorney or the Committee shall endeavor to eliminate the unlawful practice by conference, conciliation and persuasion. If the Town Attorney and the Committee fails thereby to eliminate such unlawful practices:

1. In the case of a violation of Section 12-4-4 (Q), the Town Attorney may issue an order to the violator within the aforesaid thirty day (30) period, to cease and desist from further violations of this Section and shall promptly mail a copy of such order to the violator; or

2. In the case of a violation of any other provision of Section 12-4-4, the Town Attorney may file a criminal complaint for appropriate action.

B. If the Town Attorney of the Committee finds that no unlawful practices has been or is being committed, a copy of such findings shall be promptly mailed to the grievant. The grievant shall thereafter have the right to request a complaint with the Town Attorney for appropriate action.

C. If the Town Attorney or the Committee fails to file its findings or a statement setting forth valid reasons for not having done so within sixty '(60) days after a grievance is filed, the grievant shall thereafter have the right to request a criminal complaint from the Town Attorney.

D. If another grievance is filed against a person, after a cease and desist order pursuant to Section 12-4-6 (A) (1) of this Section has been issued by the Town Attorney against said person, and upon investigation, the Town Attorney or the Committee finds that such person has committed any further violation of this Code, a criminal complaint may be requested by the aggrieved person, the Town Attorney, or by the Committee.

E. No criminal complaint for the enforcement of any provisions of this Section may be filed unless such filing is specifically authorized by this Section and by the Town attorney.

Section 12-4-7 <u>Other Remedies</u>

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he/she might otherwise be entitled, or from filing his/her complaint with any appropriate governmental agency.

Section 12-4-8 <u>Penalties</u>

Any person violating any provision of this Article shall, upon conviction thereof, be guilty of a civil offense punishable as provided in Section 1-5-1(A) of this Code, or to the full extent authorized by state or federal law, each day a violation continues shall be a separate offense. Any person violating any provision of this Article which is declared to be criminal or a misdemeanor shall, upon conviction therefore, be punished as provided in Section 1-5-1(B) of this Code.

Section 12-4-9 <u>Administrative Provisions</u>

The Town of Superior and the appropriate Committee thereof shall have the following powers:

A. To make rules and regulations which promote the administration of and compliance with the provisions of this Article. Such rules and regulations are to be effective upon their approval by the Superior Town Council.

B. The Town Attorney is empowered to take all necessary action in the appropriate court to secure the production of all records, documents, or other evidence necessary to assist the housing Committee in carrying out the provision of this ordinance.

Section 12-4-10 <u>Conciliation Agreement Violations</u>

If the Town Attorney or Housing Committee and a person accused of violation of this Chapter reach agreement and execute a conciliation agreement, and such person shall then violate any terms and conditions of said conciliation agreement it shall be as if such agreement had never been executed. In

such event, the Superior Town Attorney may file such misdemeanor charges under this Code, and further may take such other civil or criminal action as may be permitted under the Arizona Revised Statutes or this Code.

Section 12-4- 11 <u>Power of Subpoena</u>

A. The Town Attorney or the Housing committee may: subpoena witnesses at hearings and compel their attendance; administer oaths; take testimony of any person under oath, and when necessary record deemed such testimony; and require the production for examination of books and papers relating to any matter before the Housing Committee. Failure to obey a subpoena issued pursuant to this Section shall constitute contempt punishable upon action of the Town Attorney before the Magistrate or a Superior Court.

B. Any person appearing pursuant to this Section shall have the right to be represented by legal counsel

Article 12-5 <u>FLOOD CONTROL REGULATION</u>

A. That certain document, known as the "Superior Town Code, Title 12, Pinal County Flood Plain Management Ordinance August 2006, three copies of which are on file in the Office of the Town Clerk of the Town of Superior, Arizona, which document was made a public record by Ordinance No. 17-142, of the Town of Superior, Arizona, is hereby referred to, adopted and made a part thereof as if fully set out in this Ordinance.

B. In addition to all penalties prescribed elsewhere in this Ordinance, any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a Class 3 misdemeanor and upon conviction thereof shall, in addition to all other penalties prescribed by the provisions hereof, be punished in accordance with Arizona Revised Statutes Sections 13-707, 13-802(C), and 13-804(4), incorporated and made a part hereof by reference as if fully set forth herein. Each day that a violation continues shall be a separate offense punishable as herein above described.

C. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the code adopted herein by reference are hereby repealed.

D. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision shall not affect the validity of the remaining portions thereof.

E. Whereas, it is necessary for the preservation of the peace, health, and safety of the Town of Superior, Arizona, an emergency is declared to exist and this Ordinance shall become immediately operative and in force from and after the date of the posting hereof.

Article 12-6 DRILLING AND GEOPHYSICAL SURVEYS

Section 12-6-1 Application of Article
Section 12-6-2 Permit Required
Section 12-6-3 Permit Application
Section 12-6-4 Issuance of Permit
Section 12-6-5 Business License Required
Section 12-6-6 Violations - Penalties

Section 12-6-1 Application of Article

This Article shall apply to any drilling operation conducted from or upon the surface of any drill site within the boundaries of the Town and to any geophysical survey, including induced polarization and seismic surveys requiring the stringing of lines along or stationing of equipment upon the surface within the boundaries of the Town. A permit for any such drilling operation shall carry with it the right to conduct associated testing, logging, sealing, casing, plugging, perforating, sampling, and any other operation conducted in connection with the drilling operation.

Section 12-6-2 Permit Required

No person, partnership, association of persons, or corporation shall conduct any survey or drilling operation as specified in this Article unless a valid unexpired permit, issued in accordance with the terms and provisions of this Article, has been obtained.

Section 12-6-3 Permit Application

A. Each application for such permit shall be accompanied by an application filing fee in the sum of not less than one hundred (100) dollars which shall not be refundable. The fee shall be established by Resolution of the Mayor and Council.

B. The application shall contain the following:

1. The name and address of the applicant.

2. A description of the location of the proposed site together with a map or plat showing where the proposed work will be performed.

3. The estimated time required for completion of the activity.

4. In the event the operations under the permit require the use of public roads, streets or highways, the application shall contain a description of the location of such roads, streets and highways and a description of the manner of such use and the date and hours during which such use is contemplated.

5. The hours during which the permitted operations are to be conducted.

6. If the permittee intends to have the work contracted, the names and addresses of any such contractors.

C. The application shall be accompanied by the following:

1. A certificate evidencing that permittee has obtained liability and property damage insurance naming the Town, its officers and employees as additional insured, and in the amount of not less than three hundred thousand ($300,000.00) dollars per accident.

2. In the event the operations under the permit require the use or public roads, streets or highways, the application shall contain the evidence of approval by the Public Works Director of the Town for use of public roads and streets, and approval of the Arizona Highway Department when such operations include use of a state highway.

3. An agreement where under the permittee agrees to indemnify and hold the Town and each officer and employee thereof harmless from liability for operations conducted by permittee or its contractors, including a covenant to defend.

4. Permittee's statement that any requisite permission have been obtained from the owners of any private property upon which such permitted operations are to be conducted or a statement that permittee possesses the legal right to conduct such operation upon such property.

5. In the case operations are to be conducted upon any public road or street, an agreement approved by the Public Works Director where under permittee agrees to repair or replace any damage to property of the Town, accompanied by a bond or other surety acceptable to the Town Attorney in a minimum amount of five thousand ($5,000.00) dollars.

Section 12-6-4 <u>Issuance of Permit</u>

Upon compliance with the provisions of this ordinance and upon payment to the Town clerk of an amount set by resolution of the Mayor and Council the clerk shall issue a permit to the applicant; provided, however, that such permit shall restrict the number of hours during which the permitted operations are to be conducted to a period of not more than twelve (12) consecutive hours per day unless there is an express finding by the clerk that such restriction is not necessary to ensure the public health and safety of the citizens of the Town. Any permit so issued shall be for a period of three (3) months from issuance by the clerk and the permittee shall be entitled to renew and extend the permit for any number of three (3) month periods thereafter on payment to the clerk of a renewal fee in an amount established by Council resolution.

Section 12-6-5 <u>Business License Required</u>

Notwithstanding any provision of this Article each permittee and his contractor, if any, shall obtain a business license as provided in Article 8-1 of this Chapter.

Section 12-6-6 <u>Violations - Penalty</u>

Any person found guilty of violating any of the provisions of this Article shall be guilty of a civil violation punishable as provided in Section 1-5-1(A). Each day a violation continues shall be a separate offense.

CHAPTER 13 - SUBDIVISIONS

Article 13-1 SUBDIVISIONS

That certain document entitled Town of Superior Subdivision Ordinance declared to be a public record by Resolution No. 298 and adopted by Ordinance No. 60 on June 18, 1998, as amended from time to time is hereby incorporated herein as if set forth in full and readopted to the extent required.

CHAPTER 14 – GENERAL PLAN AND ZONING CODE

Article 14-1 General Plan

Article 14-2 Zoning Code

Article 14-1 General Plan

The 1997 General Plan adopted by the Superior Town Council on July 14, 1997, the General Plan Update adopted by the Superior Town Council on December 18, 2003, as Amended by the General Plan Update adopted by the Superior Town Council on February 19, 2009, and all associated maps, are hereby incorporated herein as if set forth in full, as amended from time to time, and readopted to the extent here required.

Article 14-2 Zoning Code

That certain document entitled the Town of Superior Zoning Ordinance declared to be a public record by Resolution No. 329 and adopted by the Town Council on February 17, 2000 by and through Ordinance No. 67 on February 17, 2010 together with the accompanying Official Zoning Map of the Town of Superior, Appendices, and amendments adopted and in effect on the date of the adoption of this Code, including any Ordinances authorizing zone changes, as amended from time to time. 59

59Ordinance No. 31 dated 12/15/88 adopted a Zoning Ordinance as Chapter 7 of the Town Code, which was superseded as stated above.

CHAPTER 15 - TRAFFIC

Article 15-1 ADMINISTRATION

Section 15-1-1 Duty of Police Department
Section 15-1-2 Police Department to Investigate Accidents
Section 15-1-3 Traffic Accident Studies
Section 15-1-4 Traffic Accident Reports

Section 15-1-1 Duty of Police Department

It is the duty of the police department to provide for the enforcement of the traffic regulations of the town and the state vehicle laws applicable to street traffic in the town, to take appropriate enforcement actions for traffic violations, to investigate accidents, to assist in developing means to improve traffic conditions and to carry out the duties imposed upon the police department by this chapter.

Section 15-1-2 Police Department to Investigate Accidents

It is the duty of the police department to investigate traffic accidents, take appropriate enforcement actions, and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

Section 15-1-3 Traffic Accident Studies

Whenever accidents at any particular location become numerous the police department may conduct studies of such accidents and determine remedial measures in cooperation with the town traffic engineer.

Section 15-1-4 Traffic Accident Reports

The police department shall maintain a suitable system of filing traffic accident reports.

Article 15-2 TOWN TRAFFIC ENGINEER

Section 15-2-1 Office Established
Section 15-2-2 Duties
Section 15-2-3 Emergency and Experimental Regulations
Section 15-2-4 Town of Superior Street Names Map

Section 15-2-1 Office Established

The position of town traffic engineer is hereby established, by contract or otherwise, and is subject to the general direction of the Public Works Director and Town Manager. The town engineer shall serve as town traffic engineer and shall exercise the powers and duties with respect to traffic as provided in this article.

Section 15-2-2 Duties

It is the duty of the town traffic engineer to determine the installation, proper timing and maintenance of traffic control devices, to conduct engineering analysis of traffic conditions and accidents, to devise remedial measures therefor, to plan the operation of traffic on the streets and highways of the town, to cooperate with other town officials in the improvement of traffic conditions, and to carry out the powers and duties imposed by this chapter consistent with good engineering practices.

Section 15-2-3 Emergency and Experimental Regulations

1. The chief of police with the approval of the town traffic engineer and public works director is empowered to make regulations necessary to effect the provisions of the traffic laws of this town and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety days.

2. The town traffic engineer may test traffic control devices under actual conditions of traffic.

Section 15-2-4 Town of Superior Street Names Map

The Town of Superior Street Names Map is a public record on file with the Town Clerk. The Town of Superior Street Names Map may be amended by Resolution of the Town Council, from time to time.

ARTICLE 15-3 TRAFFIC CONTROL

Section 15-3-1 Directing Traffic
Section 15-3-2 Traffic Control Devices
Section 15-3-3 Authority to Mark Crosswalks, Safety Zones and Traffic Lanes
Section 15-3-4 Authority to Place and Obedience to Turning Markers
Section 15-3-5 Authority to Place and Obedience to Turn Signs
Section 15-3-6 Limitations on Turning Around
Section 15-3-7 One-way Streets and Alleys
Section 15-3-8 Regulation of Traffic at Intersections
Section 15-3-9 Authority to Restrict Direction of Movement
Section 15-3-10 Restrictions on Use of Streets
Section 15-3-11 Operation of Vehicles on Private Property
Section 15-3-12 Speed Humps
Section 15-3-13 Failure to Obey

Section 15-3-1 Directing Traffic

A. Officers of the police department are hereby authorized to direct all traffic by voice, hand or signal.

B. Officers of the fire department, when at the scene of a fire, may direct or assist police officers in directing traffic.

Section 15-3-2 Traffic Control Devices

A. The Public Works Director shall place and maintain traffic control devices, signs and signals when required under the traffic regulations, and may place and maintain such additional traffic control devices as he may deem necessary to regulate traffic consistent with good engineering practices.

B. The driver of any vehicle shall obey the instructions of any official traffic control device.

Section 15-3-3 Authority to Mark Crosswalks, Safety Zones And Traffic Lanes

The Public Works Director is hereby authorized:

A. To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his professional opinion there is particular danger to pedestrians.

B. To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

C. To mark lanes for traffic on streets at such places as he may deem advisable, consistent with the traffic laws of the town and state.

Section 15-3-4 Authority to Place, Obedience to Turning Markers

A. The Public Works Director is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled for vehicles turning at such intersections.

B. When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning, no driver of a vehicle shall disobey such directions.

Sections 15-3-5 Authority to Place, Obedience to Turn Signs

The Public Works Director 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 signage at such intersections. 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 signage, or such signs may be removed when such turns are permitted.

Section 15-3-6 Limitations on Turning Around

The driver of any vehicle shall not make a u-turn so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made safely without interfering with other traffic. The Public Works Director is authorized to post such notice of restrictions of turning movements as may be required by law.

Section 15-3-7 One-Way Streets and Alleys

A. The Public Works Director with the approval of the council may by Resolution designate any streets or alleys which are to be limited to one-way traffic.

B. When a one-way street or alley is so designated, the Public Works Director shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Section 15-3-8 Regulation of Traffic at Intersections

A. The Public Works Director with the approval of the council may designate through streets, intersections where stops are required, and intersections where vehicles shall yield the right of way.

B. When so designated any through street or intersection where vehicles are to stop or yield the right of way, the Public Works Director shall erect and maintain appropriate signage at every location where a vehicle must stop or yield the right of way.

Section 15-3-9 Authority to Restrict Direction of Movement

A. The Public Works Director is authorized to determine and designate streets, parts of streets, or specific lanes upon which vehicular traffic shall proceed one direction during one period and the

opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The Public Works Director may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

B. It is unlawful for any person to operate any vehicle in violation of such markings, signs, barriers, or other devices so placed in accordance with this section.

Section 15-3-10 <u>Restrictions on Use of Streets</u>

A. The Public Works Director is hereby authorized to determine and designate heavily traveled streets and to erect signs prohibiting the use of the roadway by bicycles, horse-drawn vehicles, or other non-motorized traffic.

B. No person shall operate any vehicle with a gross weight in excess of twenty-four thousand pounds (24,000 lbs.) on any bridge owned and maintained by the Town.

Section 15-3-11 <u>Operation of Vehicles on Private Property</u>

It shall be unlawful for any person to operate or drive any motor vehicle, motorcycle, mini-bike, trail-bike, dune-buggy, motorized scooter, jeep or any form of transportation propelled by an internal combustion engine, upon the private property of another without the permission of the owner or the person entitled to immediate possession of such private property.

Section 15-3-12 <u>Speed Humps</u>

This Section identifies criteria to be used when considering speed hump installations. A Town Staff Committee, including the Town Manager, Public Works Director, Town Engineer, Chief of Police and the Fire Chief, or designee(s), shall meet and review requests for the installation of speed humps within the Town. Town Staff shall also solicit input from the School District and notify the Council member in whose District the request is located. Only those requests that meet all of the criteria set forth in this Section may be approved.

A. <u>Technical Criteria</u>

1. The speed hump must be located on a paved, residential street within Town right-of- way, and with no more than two lanes.

2. The existing posted speed limit shall be 25 mph or less.

3. The speed hump shall not be located within 200 feet of a stop or yield sign, or traffic signal.

4. Speed humps shall not be installed on an arterial or major collector street.

5. Drainage on the street will not be adversely impacted by the speed hump.

6. Speed humps will not be installed on streets regularly used by buses or emergency vehicles.

7. Speed humps will be no closer than 500 feet from each other.

8. Speed humps will not be installed on sharp curves.

9. The recommendations of the Fire, Police and Public Works Departments and the School District shall be given great weight in the deliberations of the Committee.

10. Speed humps shall only be constructed in accordance with the Standard Detail set forth below.

11. There must be a demonstrated need for a speed hump such as a documented history of excessive vehicle speeds in that location.

B. <u>Neighborhood Support</u>

After the speed hump location(s) has met the criteria set forth in this Subsection A the residents of the affected area must show strong neighborhood support by signing a petition in favor of the speed hump. The affected area will be determined by Town Staff.

The procedure for showing support is:

1. An information flyer will be distributed to residents explaining the pros and cons of speed humps and showing the location(s) of the proposed device.

2. Signatures of support from 75% or more of the residents within the affected area shall be obtained with only one signature per residence allowed. Residents who do not respond or express “no opinion” on the petition will be considered in opposition to the proposed speed bump(s).

3. Signatures of support from 100% of the residents within 100 feet of the proposed speed hump shall be required.

C. <u>Decision Reported</u>

Where a request for a speed hump has met the criteria set forth in Subsections A and B, the Town Manager may approve the request and cause the installation of the speed hump to occur. The Town Staff Committee may grant a waiver to any of the criteria set forth in Subsection A for good cause shown but only if such installation still meets professional engineering and safety standards. The decision of the Town Manager shall be reported to the Council together with the reasons therefore but the decision of the Town Manager shall be final.

Section 15-3-13 <u>Failure to Obey Speed Limit</u>

It shall be unlawful and punishable as provided in Section 1-5-1 (A) for any person to fail to obey speed limits within the Town. The speed limit in residential areas is 25 miles per hour unless posted otherwise.
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Article 15-4 BICYCLE REGULATIONS

Section 15-4-1 Riding on Sidewalks and Streets
Section 15-4-2 Parent or Guardian Responsible

Section 15-4-1 Riding on Sidewalks and Streets

A. The town is authorized to erect signs on any sidewalk or street prohibiting the riding of a bicycle, skateboard, roller blades, roller skates, mopeds, scooters, or any other vehicle whether gas, electric, or manually powered.

B. Whenever any person is riding a bicycle, skateboard, roller blades, roller skates, mopeds, scooters, or any other vehicle whether gas, electric, or manually powered, he/she shall yield the right of way to any pedestrian and shall give an audible warning signal before overtaking and passing any pedestrian.

C. Exception: Wheelchairs, or similar assistive devices, may be operated on any sidewalk.

Section 15-4-2 Parent or Guardian Responsible

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

Article 15-5 PARKING

Section 15-5-1 Blocking Traffic
Section 15-5-2 Parking Adjacent to Schools
Section 15-5-3 Authority to Erect Signs Restricting Parking
Section 15-5-4 Parking Vehicles on Sidewalks
Section 15-5-5 Abandoned Vehicles
Section 15-5-6 Parking Prohibited
Section 15-5-7 Parking Time Limits
Section 15-5-8 Penalties

Section 15-5-1 Blocking Traffic

A. It is unlawful for any person to stop, stand, or park any motor vehicle, or other vehicle, upon a street in such manner or under such conditions as to leave available less than ten feet of width of the roadway for the free movement of vehicular traffic, except that a person may stop temporarily, in the actual loading or unloading of passengers, or, when necessary, in the observance of traffic signs or signals of the police.

B. It is unlawful for any person to park a motor vehicle, or other vehicle, within an alley or entrance to a private driveway except for temporary loading or unloading.

Section 15-5-2 Parking Adjacent to Schools

When signs are erected prohibiting parking 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.

Section 15-5-3 Authority to Erect Signs Restricting Parking

The Public Works Director may erect signs requiring parking at an angle to the curb, allowing parking on the left-hand curb on one-way streets, notifying drivers that parking is prohibited by ordinance, and restricting parking in any way that may be necessary. When such signs are erected, no person shall stop or stand a vehicle in disobedience to such signs.

Section 15-5-4 Parking Vehicles on Sidewalks

It is unlawful for any person to park any vehicle upon any sidewalk in the town.

Section 15-5-5 Abandoned Vehicles

Any vehicle parked upon any sidewalk of the town, is declared to be a nuisance vehicle and the police may remove the vehicle at the expense of the owner in accordance with state law.

Section 15-5-6 Parking Prohibited

A. No person shall park a vehicle upon any roadway right of way for the purpose of:

1. Displaying such vehicle for sale;

2. Washing, greasing, or repairing such vehicle except repairs necessitated by an emergency.

B. The council may prohibit parking on certain streets or during certain hours. The Public Works Director shall erect signs to give notice of such prohibitions or shall paint the curb red. It shall be unlawful to park in such prohibited areas.

Section 15-5-7 <u>Parking Time Limits</u>

The council may establish time limits for parking on streets and shall cause signs to be erected giving notice thereof. It shall be unlawful to park any vehicle in excess of such time limits.

ARTICLE 15-6 CURB LOADING ZONES

Section 15-6-1	Public Works Director to Designate Curb Loading Zones
Section 15-6-2	Permits for Curb Loading Zones
Section 15-6-3	Standing in Passenger Curb Loading Zone
Section 15-6-4	Standing in Freight Curb Loading Zone
Section 15-6-5	Permit for Loading or Unloading at an Angle to the Curb
Section 15-6-6	Public Carrier Stops and Stands

Section 15-6-1 Public Works Director to Designate Curb Loading Zones

The Public Works Director is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs stating the hours during which the provisions of this article are applicable.

Section 15-6-2 Permits for Curb Loading Zones

Any person that desires a curb loading zone shall apply for a one (1) year permit for such zone and for two signs to indicate the extent of such zone at Town Hall and collect from the applicant a fee as established by council resolution from time to time. The Public Works Director upon grant of such a permit shall issue such signs. Each permit shall expire at the end of one year.

Section 15-6-3 Standing in Passenger Curb Loading Zone

No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the immediate loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such a zone are in effect and then only for a period not to exceed three (3) minutes.

Section 15-6-4 Standing in Freight Curb Loading Zone

No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the immediate unloading and delivery, pick-up or loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading exceed thirty (30) minutes. The driver of a passenger vehicle may temporarily stop in a freight curb loading zone to load or unload passengers if such stopping does not interfere with any freight delivery or pick-up vehicle waiting to enter or such zone provided that such stop shall not exceed three (3) minutes.

Section 15-6-5 Permit for Loading or Unloading at an Angle to the Curb

The Public Works Director is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle.

Section 15-6-6 Public Carrier Stops and Stands

The Public Works Director shall establish bus stops, bus stands, taxicab stands, and stands for other common-carrier passenger motor vehicles on such public streets, in such places, and in such number as he shall determine for the convenience of the public, together with appropriate signage.

CHAPTER 16 – OFFENSES

Article 16-1 OFFENSES

Section 16-1-1 Drilling of Wells
Section 16-1-2 Excavations to Be Covered
Section 16-1-3 Location of Mobile Homes
Section 16-1-4 Loitering
Section 16-1-5 Minors
Section 16-1-6 Noise
Section 16-1-7 Obstruction of Streets
Section 16-1-8 Obstruction of Views
Section 16-1-9 Obstruction of Watercourses
Section 16-1-10 Offensive Business
Section 16-1-11 Offensive Premises
Section 16-1-12 Sidewalk Sales
Section 16-1-13 Signs and Banners
Section 16-1-14 Dangerous Constructions
Section 16-1-15 Damage to Property
Section 16-1-16 Deposits of Injurious Material on Thoroughfares
Section 16-1-17 Permitting or Encouraging Underage Drinking
Section 16-1-18 Criminal Violation of Town Code

Section 16-1-1 Drilling of Wells

No wells shall be drilled within the corporate limits of the Town without a permit issued by the County. The person requesting the permit shall submit to the County detailed plans and specifications of the proposed well; showing size, location and proposed use.

Section 16-1-2 Excavations to be Covered

A. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the Town without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation during the day.60

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.61

Section 16-1-3 Location of Mobile Homes

It is unlawful, within the Town of Superior for any person to park any mobile home, motor home, or travel trailer intended for occupancy, upon any tract of land, public or private, except as specifically permitted in areas zoned for such use. Further, it is unlawful to park any mobile homes, travel trailer,

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60Editors' Notes: State law reference A.R.S. 9-240 (B) 3, 21

61Editors' Notes: State law reference A.R.S. 9-240(B) 21, ; 9-276 (A) 16

motor home or any vehicle designed to be towed, upon any street, alley, highway or other public place for a period in excess of 24 hours, except as specifically permitted Chapter 15, "Traffic," of this Code.62

Section 16-1-4 Loitering

A. It is unlawful for any person, other than the owner, manager or his authorized representative, to interfere individually or collectively with the conduct of any lawful business by obstructing entrance to such business or obstructing free passage of persons or merchandise or commodities within such place of business, or by obstructing service rendered by such business to its customers.

B. It is unlawful for any person to loiter or congregate upon any of the sidewalks of the Town so as to obstruct the use of the sidewalks to pedestrians.

C. It is unlawful for any unauthorized person to be within any Town park, playground, building, cemetery, recreational area or maintenance yard during the hours of closure as established by the Town.

D. It is unlawful for any person to linger, loiter, or otherwise use for business or social purposes any public room in any place of public accommodation, after such person has been notified by the owner or manager or his agent to leave the premises and not return.

E. The Town Manager, or designee, is authorized to direct that a Town park, playground, recreational area or cemetery be closed to all unauthorized persons when in his/her opinion an emergency situation exists which demands, for the protection of the public health, safety or morals, that the premises be closed. It is unlawful for any unauthorized person to enter into or fail to vacate a Town park, playground, recreational area or cemetery when adequate notice of such emergency closure has been given.

F. It is unlawful for any person to linger or loiter in the downtown business district, as described in the Zoning Chapter hereof between the hours of 10:00 P.M. and 5:00 A.M. without a legitimate reason for being there; or for a person or persons to linger or loiter either individually or in a group in the downtown business district in an offensive manner or in a manner likely to disturb the public peace.63

Section 16-1-5 Minors

It is unlawful for any child seventeen years old or under to loiter upon the streets or public places of the Town between the hours of 10:00 P.M. and 5:00 A.M. unless such child is accompanied by a parent, guardian or some person of lawful age having legal custody of such child. It is unlawful for any parent, guardian, or other adult person having the care and custody of such minor to encourage or allow such minor to loiter upon the streets or public places between the hours of 10:00 P.M. and 5:00 A.M. unless accompanied by such parent or guardian. The provisions of this Section shall not apply when the minor

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62Editors' Notes: State law reference, inter alia, 9-240 (B)3

63Editors' Notes: State law reference A.R.S. 9-240 (B 21 & 24

is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor.

Section 16-1-6 Noise

A. It is hereby declared to be a public nuisance and unlawful for any person to disturb the slumber, peace and quiet or otherwise interfere with or annoy the comfortable enjoyment of life or property of any persons in the neighborhood.

B. It is unlawful to play, operate, or use any device known as a sound truck, loud speaker, radio or sound amplifier or any instrument of any kind or character with 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.64

Section 16-1-7 Obstruction of Streets

It is unlawful for any person to obstruct any public street or alley, sidewalk or park or other public grounds within the Town by committing any act of, or doing anything which is injurious to the health, or indecent or offensive to the senses, or to do in or upon any such streets, alleys, sidewalks, parks or other public grounds, any act or thing which is an obstruction or interference to the free use of the property or with any business lawfully conducted by anyone, in or upon, or facing or fronting on any such streets, alleys, sidewalks, parks, or other public grounds in the Town.65

Section 16-1-8 Obstruction of View

It is unlawful for any person to maintain or allow any tree, hedge, billboard, or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.66

Section 16-1-9 Obstruction of Watercourses

A. It is unlawful for any person to deposit, place or dump any rubbish, dirt, sand, gravel, rock, clay or other material in any natural watercourse in the Town which will, in any manner, tend to fill up, change or obstruct the watercourse, without a written permit from the County.

B. The County may grant permits in writing to qualified applicants to deposit and place, under direction and supervision and in such manner as the engineer shall direct, refuse, dirt, sand, gravel, rock and other material in watercourses in the Town, when in the opinion of the engineer, the placing and depositing of such materials will improve such watercourses and protect the streets, alleys, and property bordering on such natural watercourses, provided that same shall be done in accordance with state and federal law.

64Editors' Notes: State law reference: A.R.S. Section 9-240 (B)(13), (15) a & b

65Editors' Notes: State law reference: A.R.S. Section 9-240 (B)(3)

66Editors' Notes: State law reference: A.R.S. Section 9-240 (B)(2)

C. It is unlawful for any person to build or construct any approach, culvert or bridge over any gutter or water conduit which is in or along any sidewalk, street, avenue, alley or public park in the Town without having first obtained a permit from the County.
D. It is unlawful for any person to place, construct, or maintain any obstruction in any gutter or water conduit in or along any sidewalk, street, avenue, alley or public park in the Town that will in any way obstruct the flow of water therein.

E. It is unlawful to sweep or place any paper, shavings, rubbish, or like material in any gutter or water conduit in or along any sidewalk, street, avenue, alley or public park.

F. It is unlawful to drive any vehicle on or across any sidewalk, unless there is a bridge, culvert or approach constructed across the gutter or water conduit sufficient to protect the curbing of such sidewalk.

Section 16-1-10 Offensive Business

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep, or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain, or carry on any other business or occupation offensive to the senses or prejudicial to the public health within the limits of the Town.67

Section 16-1-11 Offensive Premises

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him, or any cellar, privy, vault, pool, sewer, or private drain therein to become nauseous, foul, or offensive to the senses or prejudicial to the public health or comfort.68

Section 16-1-12 Sidewalk Sales

It is unlawful to hold a sidewalk sale within the Town without the written approval of the Town.69

Section 16-1-13 Signs and Banners

It is unlawful for any person to place any banner or sign upon any street light pole, traffic signal pole, or utility pole within the Town without first obtaining authorization from the Town.

It is unlawful for any person to post, assist in posting or employ others to pose any handbill, placard, poster, circulation, advertisement picture, written or printing of any description upon any public or private building, improvement, structure, fence or other premises in the Town without the permission of the owner or occupant.

67Editors' Notes: State law reference: A.R.S. Section 9-240 (B)(21); 9-276 (A) 16, 18

68Editors' Notes: State law reference: A.R.S. Section 9-240 (B)(21); 9-276(A) 7,9,12,16,& 22

69Editors' Notes: State Law reference: A.R.S. 9-276(A) 6

It is unlawful to paint, print, write, stamp or in any manner to impose or impress any advertisement, sign, mark, letter, number, figure or emblem of any kind, or in any manner to deface any sidewalk in the Town.

Section16-1-14 Dangerous Constructions

It is unlawful for any person to maintain or allow any signs, billboards, awnings or other similar structures over or near streets sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.

Section 16-1-15 Damage to Property

A. It is unlawful for any person to damage or attempt to damage in any manner or tamper with any pipe line, water hydrant, street, lamp or light, or the fixtures and appliances thereunto belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the Town or any water pipes, hydrants or any appliances pertaining to the water or sewer works, or any other property of any and every character belonging to the Town.

B. It is unlawful for any person to deface, walk, ride or drive upon or over any sidewalk or street crossing composed of or containing cement, during the construction thereof, or before the same is open to public use.

C. It is unlawful for any person to damage in any manner any road, street or bridge in the Town by using the same with heavy vehicles, malicious destruction or by any act that will result in damage to any such road, street or bridge.

D. It is unlawful to break or destroy any window, door or part of any dwelling owned or occupied by another or to break or sever from any premises owned or occupied by another any gate, fence, railing, tree brush or vine or any property whatsoever, or to deface or injure the same.

Section 16-1-16 Deposits of Injurious Material on Thoroughfares

It is unlawful for any person, either willfully and maliciously or carelessly and negligently, to drop, throw, place or scatter upon any street, alley, sidewalk or public place in the Town any nails, tacks, broken glass, glass bottles or any instrument or thing whatsoever of such nature as to be capable of injuring persons or property.

Section 16-1-17 Permitting or Encouraging Underage Drinking

No person of legal drinking age in Arizona may knowingly permit or fail to take reasonable action to prevent illegal consumption of spirituous liquor by an underage person on premises owned by the person or under the person's control. This subsection does not apply to spirituous liquor used exclusively as part of a religious service. Any person that violates this Section is guilty of a Class 1 misdemeanor.

Section 16-1-18 Criminal Violation of Town Code

Notwithstanding any language to the contrary herein, any violation of this Code may be charged as a criminal class one misdemeanor punishable as provided in Section 1-5-1(B) where there are exigent circumstances and a clear and present danger of immediate harm to person, property, public safety or order.70

Section 16-1-19 <u>Sexually oriented business regulation.</u>

(a) *Purpose and Intent.* It is the purpose and intent of this section to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town of Superior and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the Town, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

(b) *Definitions.*

Adult arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore, *adult novelty store* or *adult video store* means a commercial establishment which, offers for sale or rental, for any form of consideration any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities"; and which meets one or more of the following criteria:

   i. A substantial or significant portion of its inventory, stock or merchandise on hand at any time is comprised of sexually explicit material; or

   ii. A substantial or significant portion of its gross income for any one month is derived from the sale or rental, in any form of consideration, of sexually explicit material; or

   iii. A substantial or significant amount of sexually explicit material is displayed in its display area; or

   iv. Its principal business purpose is the sale or rental of sexually explicit material; or

70<u>Editors' Notes</u>: A.R.S. 9-240 (B) 28

v. Regularly excludes all minors from the premises because of the sexually explicit nature of the items sold, rented or displayed therein.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which features:

a. Persons who appear in a state of nudity or semi-nude; or

b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

c. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment which:

a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

b. Offers a sleeping room for rent for a period of time that is less than ten hours; or

c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment means and includes any of the following:

a. The opening or commencement of any sexually oriented business as a new business;

b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

c. The additions of any sexually oriented business to any other existing sexually oriented business; or

d. The relocation of any sexually oriented business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Massage establishment means an establishment in which a person, firm, association or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or simulating of external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance.

a. This paragraph does not apply to:

1. Physicians licensed pursuant to A.R.S. title 32, Ch. 7, 8, 13, 14, or 17, as amended.

2. Registered nurses, licensed practical nurses, physical therapists or technicians who are acting under the supervision of a physician licensed pursuant to A.R.S. title 32, Ch. 13, 15, 17, or 19, as amended.

3. Persons who are employed or acting as trainees for a bona fide amateur, semiprofessional athlete or athletic team.

4. Persons who are licensed pursuant to A.R.S. title 32, as amended, or if the activity is limited to the head, face, or neck.

5. Massage therapy which is a non-sexual massage offered by an individual who is licensed by a professionally recognized organization.

Nude model studio means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of Arizona or a college, junior college or university supported entire or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation, or in a structure:

a. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and

c. Where no more than one nude or semi-nude model is on the premises at any one time.

Nudity or *a state of nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female

breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Semi-nude or *in a semi-nude condition* means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually explicit material means any material which depicts or describes "specified sexual activities" or "specified anatomical areas".

Sexually oriented business means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Specified anatomical areas means:

a. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

b. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

Specified criminal activity means any of the following offenses:

a. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

b. For which:

    1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

    2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

    3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the

convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

c. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified sexual activities means any of the following:

a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

c. Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

a. The sale, lease, or sublease of the business;

b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(c) *Classification.* Sexually oriented businesses are classified as follows:

(1) Adult arcades;

(2) Adult bookstores, adult novelty stores, or adult video stores;

(3) Adult cabarets;

(4) Adult motels;

(5) Adult motion picture theaters;

(6) Adult theaters;

(7) Escort agencies;

(8) Nude model studios; and

(9) Sexual encounter centers.

(d) *Location of Sexually Oriented Businesses.*

(1) No person shall operate or cause to be operated a sexually oriented business in any zoning district other than C-2 (General Commercial), Garden Industrial (I-1) or General Industrial (I-2) as defined and described in this chapter, nor shall any person operate or cause to be operated a sexually oriented business without a conditional use permit which meets all of the requirements set forth in Section 3.3, Conditional Use Permits, and this Section.

(2) No person shall operate or cause to be operated a sexually oriented business within 500 feet of:

a. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

b. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

c. A boundary of a residential zoning district as defined in this chapter;

d. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities;

e. The property line of a lot devoted to a residential use;

f. An entertainment business which is oriented primarily towards children or family entertainment; or

g. A licensed premise, licensed pursuant to the alcoholic beverage control regulations of the State.

(3) No person shall cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 200 feet of another sexually oriented business.

(4) No person shall cause or permit the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(5) For purposes of the 500-foot restriction referenced in paragraph (2) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (d)(2) above. Presence of a Town, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

(6) For purposes of the 200-foot requirement referenced in paragraph (3) above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(e) *Additional Regulations for Adult Motels.*

(1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours

creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(2) It shall be unlawful for any person, if as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he or she rents or sub-rents a sleeping room to a person and, within ten hours from the time the room is rented, he or she rents or sub-rents the same sleeping room again.

(3) For purposes of subsection (e)(2) above, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

(f) *Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.*

(1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

a. Upon application for a conditional use permit for a sexually oriented business, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Town may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

b. The application shall be sworn to be true and correct by the applicant.

c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Town.

d. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

f. It shall be the duty of the licensee to ensure that the view area specified in subsection (e) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this subsection (f)(1).

g. No viewing room may be occupied by more than one person at any time.

h. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot-candles as measured at the floor level.

i. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

j. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

k. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

l. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

m. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

n. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(g) *Additional Regulations for Escort Agencies.*

(1) An escort agency shall not employ any person under the age of 18 years.

(2) No person shall act as an escort or agree to act as an escort for any person under the age of 18 years.

(h) *Additional Regulations for Nude Model Studios.*

(1) A nude model studio shall not employ any person under the age of 18 years.

(2) No person under the age of 18 years shall appear semi-nude or in a state of nudity in or on the premises of a nude model studio. No employee shall allow a person under the age of 18 years to appear semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

(3) No person shall appear in a state of nudity, or knowingly allow another person to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(i) *Additional Regulations Concerning Public Nudity.*

(1) No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or depict specified sexual activities.

(2) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet from any patron or customer and on a stage at least two feet from the floor.

(3) No employee shall, while in a semi-nude condition in a sexually oriented business, solicit any pay or gratuity from any patron or customer nor shall any patron or customer pay or give any gratuity to any employee, while said employee is in a semi-nude condition in a sexually oriented business.

(4) No employee of a sexually oriented business shall, while in a semi-nude condition, touch a customer or the clothing of a customer.

(j) *Prohibition Against Children.* No person shall knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.

(k) *Prohibition Against Serving Alcohol.* No alcoholic beverages shall be sold, served, or consumed on the premises of any sexually oriented business.

(l) *Hours of Operation.* No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 12:00 a.m. and 8:00 a.m.

(m) *Exemptions.*

(1) It is a defense to prosecution under this Section that a person appearing in a state of nudity did so in a modeling class operated:

a. By a proprietary school, licensed by the State of Arizona; a college, junior college, or university supported entirely or partly by taxation;

b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

c. In a structure:

1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

2. Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

3. Where no more than one nude model is on the premises at any one time.

(n) *Injunction.* A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of any part of this Section is subject to a suit for injunction and shall be guilty of a class 1 misdemeanor, a criminal violation punishable as provided in Section 1-8 of the Superior Town Code. Each day a sexually oriented business operates in violation of any part of this section is a separate offense or violation.