TOWN OF SPRINGERVILLE

MUNICIPAL CODE

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CODE INSTRUCTIONS

I. How to Use Your Code

I. How to Use Your Code

This code is organized to make the laws of the town as accessible as possible to town officials, town employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

Numbering System.

The numbering system is the backbone of a code of ordinances; we use a unique and versatile numbering structure that allows for easy expansion and amendment of this code. It is based on three tiers, beginning with title, then chapter, and ending with section. Each part is represented in the code section number. For example, Section 2.04.010 is Section .010, in Chapter 2.04 of Title 2.

Title.

A title is a broad category under which ordinances on a related subject are compiled. This code contains about 15 to 20 titles. For example, the first title is Title 1, General Provisions, which may contain ordinances about the general penalty, code adoption and definitions. The titles in this code are separated by tabbed divider pages for quick reference. Some titles are Reserved for later use.

Chapter.

Chapters deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material.

Section.

Each section of the code contains substantive ordinance material. The sections are numbered by “tens” to allow for expansion of the code without renumbering.

Tables of Contents.

There are many tables of contents in this code to assist in locating specific information. At the beginning of the code is the main table of contents listing each title. In addition, each title and chapter has its’ own table of contents listing the chapters and sections, respectively.

Ordinance History Note.

At the end of each code section, you will find an “ordinance history note,” which lists the underlying ordinances for that section. The ordinances are listed by number, section (if applicable) and year. (Example: (Ord. 272 § 1, 1992).) This note will be updated as each section is amended, with the most recent amendment added to the beginning. The notation “(part)” is used

when the code section contains only part of the ordinance (or section of the ordinance) specified; this indicates that there are other areas of the code affected by the same ordinance (or section of the ordinance). If the code section was derived from an earlier codification, the last entry in the note indicates the old or "prior code" section number.

Statutory References.

The statutory references direct the code user to those portions of the state statutes that are applicable to the laws of the municipality. As the statutes are revised, these references will be updated.

Cross-Reference Table.

When a code is based on an earlier codification, the cross-reference table will help users find older or "prior" code references in the new code. The cross-reference table is located near the end of the code, under the tabbed divider "Tables." This table lists the prior code section in the column labeled "Prior Code Section" and the new code section in the column labeled "Herein." This table will be updated as prior code sections are renumbered or repealed.

Ordinance List and Disposition Table.

To find a specific ordinance in the code, turn to the section called "Tables" for the Ordinance List and Disposition Table. This very useful table tells you the status of every ordinance. The table is organized by ordinance number and provides a brief description and the disposition of the ordinance. If the ordinance is codified, the chapter (or chapters) will be indicated. (Example: (2.04, 6.12, 9.04).) If the ordinance is of a temporary nature or deals with subjects not normally codified, such as budgets, taxes, annexations or rezones, the disposition will be "(Special)." If the ordinance is for some reason omitted from the code, usually at the direction of the municipality, the disposition will be "(Not codified)." When an ordinance is repealed, the disposition will be changed to "(Repealed by Ord...)" with the appropriate ordinance number. Other dispositions sometimes used are "(Tabled)," "(Pending)," "(Number Not Used)" or "(Missing)."

Index.

If you're not certain where to look for a particular subject in this code, start with the index. This is an alphabetical multi-tier subject index which uses section numbers as the reference, and cross-references where necessary. Look for the main heading of the subject you need, then the appropriate subheadings:

BUSINESS LICENSE
- See also BUSINESS TAX
- Fee 5.04.030
- Required when 5.04.010

The index will be updated as necessary when the code text is amended.

Insertion Guide.

Each supplement to the new code will be accompanied by an Insertion Guide. This guide will tell the code user the date of the most recent supplement and the last ordinance contained in that supplement. It will then list the pages that must be pulled from the code and the new pages that must be inserted. Following these instruction carefully will assure that the code is kept accurate and current.

Page Numbers.

When originally published, this code was numbered with consecutive page numbers. As it is amended, new material may require the insertion of new pages that are numbered with hyphens. (Example: 31, 32, 32-1.) Backs of pages that are blank (in codes that are printed double-sided are left unnumbered but the number is “reserved” for later use.

1. GENERAL PROVISIONS

Title 1

GENERAL PROVISIONS

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Chapter 1.04

CODE ADOPTION

Sections:

1.01.010 Effective date.
1.01.020 Ordinances exempt from repeal.

1.01.010 Effective date

All ordinances of the Town of Springerville except those specifically exempted in this section 1.04.020, now in force and effect are hereby repealed effective at 12:01 a.m. on the first day of March 17, 2004, 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.

1.01.020 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. Ordinance No. 26
B. Ordinance No. 30
C. Ordinance No. 34
D. Ordinance No. 37
E. Ordinance No. 39
F. Ordinance No. 44
G. Ordinance No. 45
H. Ordinance No. 51
I. Ordinance No. 52
J. Ordinance No. 53
K. Ordinance No. 54
L. Ordinance No. 55
M. Ordinance No. 56
N. Ordinance No. 58
O. Ordinance No. 60
P. Ordinance No. 61
Q. Ordinance No. 63
R. Ordinance No. 66 (amends right-of-way)
S. Ordinance No. 67
T. Ordinance No. 70 (zoning map amendment)
U. Ordinance No. 70 (expenditure limit)
V. Ordinance No. 74
W. Ordinance No. 76
X. Ordinance No. 82
Y. Ordinance No. 83
Z. Ordinance No. 84
AA. Ordinance No. 85

BB. Ordinance No. 86
CC. Ordinance No. 87
DD. Ordinance No. 89
EE. Ordinance No. 91
FF. Ordinance No. 92
GG. Ordinance No. 95
HH. Ordinance No. 96
II. Ordinance No. 97
JJ. Ordinance No. 104
KK. Ordinance No. 107
LL. Ordinance No. 108
MM. Ordinance No. 109 (tax code amendment)
NN. Ordinance No. 112
OO. Ordinance No. 118
PP. Ordinance No. 126
QQ. Ordinance No. 2000-001
RR. Ordinance No. 2001-001
SS. Ordinance No. 2001-002
TT. Ordinance No. 2001-003
UU. Ordinance No. 2001-004
VV. Ordinance No. 2001-005
WW. Ordinance No. 2003-001
XX. Ordinance No. 32-B
YY. Ordinance No. 34-A
ZZ. Ordinance No. 41-A
AAA. Ordinance No. 54-1
BBB. Ordinance No. 54-2
CCC. Ordinance No. 98-127
DDD. Ordinance No. 98-129
EEE. Ordinance No. 99-001
FFF. Ordinance No. 99-004

Chapter 1.04

GENERAL PROVISIONS

Sections:

1.04.010 How code designated and cited.
1.04.020 Construction of ordinances.
1.04.030 Definitions.
1.04.040 Additional rules of construction.
1.04.050 References to this code.
1.04.060 Conflicting provisions.
1.04.070 Section headings.
1.04.080 Effect of repeal.
1.04.090 Severability.

1.04.010 How code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Town of Springerville Municipal Code," and may be so cited. Such code may also be cited as the Springerville Town Code." (Prior code § 1-1)

1.04.020 Construction of ordinances.

The rules and the definitions set forth in this chapter shall be observed in the construction of this code and the ordinances of the town unless such construction would be inconsistent with either the manifest intent of the council or the context of this code or the ordinances of the town. (Prior code § 1-2)

1.04.030 Definitions

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

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

"Code", **"the code"** or **"this code"** means "The Town of Springerville Municipal Code," unless the context indicates otherwise.

"Council" means the common council of the town of Springerville, Arizona.

"Day" means the period of time between any midnight and the midnight following.

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

"Department, board, commission, office, officer or employee" means a department, board, commission, office, officer, or employee of the town, unless the context clearly indicates otherwise.

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

"In the town" or **"within the town"** means and includes all territory over which the town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

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

"Month" means a calendar month.

"Oath" includes affirmation or declaration.

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

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

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

"Preceding" and **"following"** mean next before and next after, respectively.

"Property" includes real and personal property.

"Real property" includes real and personal property.

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

"Shall have been" includes past and future cases.

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

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

"Tenant" or **"occupant"**, when 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.

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

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 may be necessary for the prompt performance of such duty, or compliance with such notice.

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.

"Town" means the town of Springerville, Arizona.

"Week" consists of seven consecutive days.

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

"Year" means a calendar year, except where otherwise provided. (Prior code § 1-3)

1.04.040 Additional rules of construction.

In addition to the rules of construction specified in the previous section, the rules set forth in Sections 1.04.050 and 1.04.060 shall be observed in the construction of this code. (Prior code § 1-4-1)

1.04.050 References to this code.

All references to chapter, articles or sections are to the chapters, articles and sections of this code unless otherwise specified. (Prior code § 1-4-2)

1.04.060 Conflicting provisions

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

B. Same Chapter. If conflicting provisions are found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless such construction is inconsistent with the meaning of such chapter. (Prior code §§ 1-4-3, 1-4-4)

1.04.070 Section headings.

Headings of the several sections of this code are intended as a convenience to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such section, including the headings, is amended or reenacted. (Prior code § 1-5)

1.04.080 Effect of repeal.

When any ordinance repealing a former ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided. The

repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed. (Prior code § 1-6)

1.04.090 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 unconstitutional for any reason by a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining provisions of the code. (Prior code § 1-7)

Chapter 1.08

ELECTIONS

Sections:

1.08.010 Primary election.
1.08.020 Nonpolitical ballot.
1.08.030 General election nomination.
1.08.040 Election to office.

1.08.010 Primary election.

Any candidate who shall receive at the primary election a majority of all the votes cast shall be declared to be elected to the office for which he or she is a candidate effective as of the date of the general election, and no further election shall be held as to the candidate. (Prior code § 2-3-1)

1.08.020 Nonpolitical ballot.

Nothing on the ballot in any election shall be indicative of the political affiliation of the candidate. (Prior code § 2-3-2)

1.08.030 General election nomination.

If at any primary election held as above provided there be any office or offices for which no candidate is elected, then as to such office or offices, the election shall be considered to be a primary election for nomination of candidates for such office or offices, and the second or general municipal election shall be held to vote for candidates to fill such office or offices. Candidates to be placed on the ballot at such second or general municipal election shall be those not elected at such first election, shall be equal in number to twice the number to be elected to any given office or less than that number if there be less than that number named on the primary election ballot, and persons who received the highest number of votes for the respective offices at such first election shall be the only candidates at such second election, provided that if there be any person who, under the provisions of this chapter, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefore, then all such persons receiving an equal number of votes shall likewise become candidates for such office. (Editorially amended during 1998 codification; prior code § 2-3-3)

1.08.040 Election to office.

The candidates equal in number to the persons to be elected who receive the highest number of votes shall be declared elected. (Prior code § 2-3-4)

Chapter 1.12

INITIATIVE AND REFERENDUM

Sections:

1.12.010 Generally.
1.12.020 Power reserved – Time of election.
1.12.030 Number of signatures.
1.12.040 Time of filing.
1.12.050 Sample ballots and publicity pamphlets.

1.12.010 Generally.

The town provides for the manner of exercising the power of the initiative and referendum; time of election; number of signatures; time of filing; sample ballots and publicity pamphlets. (Ord. 105 § 1, 1993)

1.12.020 Power reserved – Time of election.

There is reserved to the qualified electors of the town the power of the initiative and the referendum as prescribed by the state constitution. Any initiative or referendum matter may be voted on at the next ensuing primary or general election, or at a special election called by the council for such purpose. (Ord. 105 § 2, 1993)

1.12.030 Number of signatures.

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

B. The basis upon which the number of qualified electors of the town required to file a referendum petition shall be as determined by state law. (Ord. 105 § 3, 1993)

1.12.040 Time of filing.

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

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

application, the thirty (30) day period shall be calculated from the date such ordinance or resolution is available. (Ord. 105 § 4, 1993)

1.12.050 Sample ballots and publicity pamphlets.

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

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

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

C. Arguments supporting and opposing propositions appearing on the ballot shall be filed in the office of the town clerk by five p.m. not less than sixty (60) days prior to the elections at which the propositions are to be voted upon. Arguments supporting or opposing propositions appearing on the ballot shall comply with the following requirements:
   1. Arguments must relate to the propositions proposed by initiative or referred by referendum which will appear on the ballot.
   2. Arguments must identify the proposition to which they refer and indicate whether the argument is in support of or in opposition to the proposition.
   3. Arguments may not exceed three hundred (300) words in length.
   4. Arguments must be signed by the person submitting them. Arguments submitted by organizations shall be signed on behalf of the organization by an officer of the organization authorized to take such action. All persons signing documents shall indicate their residence or post office address.
   5. No person or organization shall submit more than one argument for each proposition to be voted on.
   6. Each argument shall be accompanied by a deposit in the amount of fifty dollars ($50.00) to offset proportional costs of printing. This requirement shall not be waived on any account. (Ord. 124 § 1, 1998, Ord. 105 § 5, 1993)

Chapter 1.16

RIGHT OF ENTRY FOR INSPECTION

Sections:

1.16.010 Authorized when.
1.16.020 Consent of owner for inspection.

1.16.010 Authorized when.

Whenever any officer of employee of the town is authorized to enter any building or premises for the purpose of making an inspection to enforce any ordinance, he or she may enter such building or premises at all reasonable times to inspect the same, provided that he or she shall effect entry in the manner provided in Section 1.16.020, except in emergency situations, or when consent of the person having charge or control of such building or premises has been otherwise obtained. (Ord. 121 § 1, 1998)

1.16.020 Consent by owner for inspection.

If the building or premises to be inspected is occupied, the authorized officer or employee shall first present proper credentials and request entry; and if such building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If consent to such entry is not given, the authorized officer or employee shall have recourse to every remedy provided by law to secure entry. (Ord. 121 § 2, 1998)

Chapter 1.20

GENERAL PENALTY

Sections:

1.20.010 General penalty.

1.20.010 General penalty.

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the town shall be guilty of an infraction unless the violation is declared to be a civil violation or misdemeanor by ordinance.
B. Except in cases where a different punishment is prescribed by any ordinance of the town, any person convicted of a misdemeanor for violation of an ordinance of the town is punishable by a fine of not more than two thousand five hundred dollars ($2,500.00), or by imprisonment not to exceed six months, or by both such fine and imprisonment.
C. Any person convicted of an infraction for violation of an ordinance of the town is punishable by a penalty of not more than two thousand five hundred dollars ($2,500.00).
D. In addition to the fines and penalties prescribed by this section or other ordinances in the Municipal Code, a court shall have the discretion to order restitution for victims, community service or other remedies fashioned by the court to fit the violation, crime or infraction.
E. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the town is committed, continued or permitted by any such person, and he or she shall be punishable accordingly. (Ord. 122 § 2, 1998)

2. ADMINISTRATION AND PERSONNEL

Title 2

ADMINISTRATION AND PERSONNEL

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Chapter 2.04

TOWN COUNCIL

Sections:

2.04.010 Elected officers.
2.04.020 Corporate powers.
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2.04.100 Meetings to be public.
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2.04.130 Order of business.
2.04.140 Committees and commissions.
2.04.150 Voting.
2.04.160 Suspension of rules.
2.04.170 Ordinances, resolutions and contracts.

2.04.010 Elected officers.

The elected officers of the town shall be a mayor and four councilpersons. The mayor and councilpersons shall constitute the common council and shall continue in office until assumption of duties of office by their duly elected successors. Councilpersons shall serve four-year terms in the manner provided by Arizona Revised Statutes. (Ord. 124 § 2, 1998: prior code § 2-1-1)

2.04.20 Corporate powers.

The corporate powers of the town shall be vested in the council and shall be exercised only as directed or authorized by law. All powers of the council shall be exercised by ordinance, resolution, order or motion. (Prior code § 2-1-2)

2.04.030 Duties of office.

Councilpersons shall assume the duties of office at the regularly scheduled council meeting next following the date of the general election at which, or effective as of the date of which, the councilpersons were elected. (Prior code § 2-1-3)

2.04.040 Vacancies in council.

The council shall fill by appointment for the unexpired term any vacancy that may occur for whatever reason. (Prior code § 2-1-4)

2.04.050 Compensation.

The mayor and each member of the common council shall be compensated for his or her duties in an amount established by resolution or ordinance of the common council; provided, that such amount shall not exceed the amount authorized by state statute. (Ord. 124 § 3, 1998: prior code § 2-1-5)

2.04.060 Oath of office.

Immediately prior to assumption of the duties of office, each councilperson shall, in public, take and subscribe to the oath of office. (Prior code § 2-1-6)

2.04.070 Bond.

Prior to taking office, every councilmember shall execute and file an official bond, enforceable against the principal and his or her sureties, conditioned on the due and faithful performance of his or her official duties, payable to the state and to and for the use and benefit of the town or any person who may be injured or aggrieved by the wrongful act or default of such officer in his or her official capacity. A person so injured or aggrieved may bring suit on such bond under provisions identical to those contained in Section 38-260 of the Arizona Revised Statutes. Bonds shall be in such sum as shall be provided by resolution and the premium for such bonds shall be paid by the town. (Prior code § 2-1-7)

2.04.080 Regular meetings.

A. Beginning with Wednesday, July 6, 1994, and thereafter, the regularly scheduled meetings of the mayor and common council of the town shall take place on the first and third Wednesdays of each month at six p.m. in the evening.
B. The town staff shall use its best efforts to notify the citizens and to publicize this change in meeting schedule to accomplish the goal of increasing public participation in local government. (Ord. 105A §§ 1, 2, 1994)

2.04.090 Special meetings.

The mayor, or the clerk upon the written request of three members, may convene the council at any time by notifying the members of the date, hour and purpose of such special meeting. (Prior code § 2-4-2)

2.04.100 Meetings to be public.

All proceedings of the common council shall be open to the public in accordance with Arizona's Open Meeting Law, Arizona Revised Statutes, Title 38, Chapter 3, Article 3.1, as amended. (Ord. 124 § 4, 1998: prior code § 2-4-3)

2.04.110 Quorum.

A majority of the councilpersons shall constitute a quorum for transacting business but a lesser number may adjourn from time to time and compel the attendance of absent members. (Prior code § 2-4-4)

2.04.120 Agenda.

Prior to each council meeting, or on or before a time fixed by the council for preparation and distribution of an agenda, whichever is earlier, the clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council, and prepare an agenda according to the order of business and shall furnish each councilmember, the mayor, and the attorney with a copy. (Prior code § 2-4-5)

2.04.130 Order of business.

The business of the council shall be taken up for consideration and disposition in the following order:

A. The mayor shall take the chair at the hour appointed for the meeting and shall call the common council to order. In the absence of the mayor, the vice-mayor shall call the common council to order. In the absence of both the mayor and the vice-mayor, the town clerk shall call the common council to order and an acting mayor shall be selected to chair the meeting. Upon the arrival of the mayor or the vice-mayor, the acting mayor shall relinquish the chair upon the conclusion of the business immediately before the common council. The mayor shall preserve order and decorum, decide all questions of order, and conduct the proceedings of the meetings in accordance with the parliamentary rules contained in Roberts Rules of Order.

B. Roll Call. Before proceeding with the business of the council, the clerk or his or her deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum is not present, the members present may adjourn pursuant to Section 2.04.110.

C. Minutes. The clerk or his or her deputy shall read or present the minutes of the preceding council meeting, which shall be approved if correct. Any errors noted shall be corrected.

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

E. Reports by Officers. Town officials and committees shall present any reports required by the council.

F. Unfinished Business. The council shall consider any business that has been previously considered and which is still unfinished.

G. New Business. The council shall consider any business not heretofore considered, including the introduction of ordinances and resolutions.

H. Claims. The clerk shall present any claims against the town, which will then be approved or disapproved by the council.

I. 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. (Ord. 124 § 5, 1998; prior code § 2-4-6)

2.04.140 Committees and commissions.
The council may create such committees and commissions, standing or special, as it deems necessary. They shall consist of as many members and shall perform such duties as the council may require and shall exist at the pleasure of the council. (Prior code § 2-4-7)

2.04.150 Voting.
A. The mayor shall vote as a member of the council.
B. Upon the request of any member, the ayes and nays upon any question shall be taken and entered in the minutes. (Prior code § 2-4-8)

2.04.160 Suspension of rules.
Any of the provisions of this chapter may be temporarily suspended in connection with any matter under consideration by a recorded vote of three fourths of the members present, except that this section shall not be construed to permit any action that is contrary to state statutes. (Prior code § 2-4-9)

2.04.170 Ordinances, resolutions and contracts.
A. Prior Approval. All ordinances, resolutions and contract documents shall, before presentation to the council, have been reviewed as to form by the attorney, and shall when there are substantive matters of administration involved, be referred to the person who is charged with the administration of the matters. Such person shall have an opportunity to present his or her objections, if any, prior to the passage of the ordinance, resolution or acceptance of the contract.
B. Introduction. Ordinances, resolutions and other matters or subjects requiring action by the council shall be introduced and sponsored by a member of the council, except that the attorney or the clerk may present ordinances, resolutions and other matters or subjects to the council, and any councilperson may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise they shall not be considered.
C. Same Day Passage Prohibited. No ordinance except emergency ordinances shall be put on its final passage on the same day on which it was introduced.
D. Two Separate Readings. All ordinances except emergency ordinances shall have two separate readings, but the first and the second reading shall never be made on the same day. The first reading may be by title only, but the second reading shall be in full, unless the council, in possession of printed copies of the ordinance, shall unanimously allow reading by title only.
E. Requirements for an Ordinance. Each ordinance should have but one subject, the nature of which is clearly expressed in the title. Whenever possible, each ordinance shall be introduced as an amendment to this code or to an existing ordinance, and in such case, the title of the sections to be amended shall be included in the ordinance.

F. Effective Date of Ordinances. No ordinance, resolution or franchise shall become operative until thirty (30) days after its passage by the council and approval by the mayor, except measures necessary for the immediate preservation of the peace, health or safety of the town, but such an emergency measure shall not become immediately operative unless it states in a separate section the reason why it is necessary that it should become immediately operative, and unless it is approved by the affirmative vote of three-fourths of all the members elected to the council, taken by ayes and nays.
G. Signatures Required. Every ordinance passed by the council shall, before it becomes effective, be signed by the mayor and attested by the clerk.
H. Publishing Required. Only such orders, resolutions, motions, regulations or proceedings of the council shall be published as may be required by state statutes or expressly ordered by the council.
I. Posting Required. Every ordinance imposing any penalty, fine, forfeiture or other punishment, shall, after passage be posted by the clerk in three or more public places within the town and an affidavit of the person who posted the ordinances shall be filed in the office of the clerk as proof of posting. (Prior code § 2-5)

Chapter 2.08

MAYOR

Sections:

2.08.010 Election and term.
2.08.020 Mayor pro tem.
2.08.030 Acting mayor.
2.08.040 Powers and duties.
2.08.050 Absence of mayor.
2.08.060 Failure to sign documents.

2.08.010 Election and term.

A. Direct Election of the Mayor. Beginning with the election to be held on March 10, 1998, the mayor of the town shall be directly elected by the qualified electors of the town.
B. Term of Office. The term of office of the mayor shall be four years. (Ord. 110 §§ 1, 2, 1995)

2.08.020 Mayor pro tem.

The council shall designate one of its members as mayor pro tem, who shall serve at the pleasure of the council. The mayor pro tem shall perform the duties of the mayor during his or her absence or disability. (Prior code § 2-2-2)

2.08.030 Acting mayor.

In the absence or disability of both the mayor and mayor pro tem, 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. (Prior code § 2-2-3)

2.08.040 Powers and duties.

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

A. He or she shall be the chief executive officer of the town.
B. He or she shall be the chairman of the council and preside over its meetings. He or she may make and second motions and shall have a voice and vote in all its proceedings.
C. He or she shall enforce the provisions of this code.
D. He or she shall execute and authenticate by his or her signature such instruments as the council, or any statutes, ordinances, or this code shall require.
E. He or she shall make such recommendations and suggestions to the council as he or she may consider proper.
F. He or she shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the town. (Ord. 123 § 2 (part), 1998; prior code § 2-2-4)

2.08.050 Absence of mayor.
The mayor shall not absent himself or herself from the town for a greater period than fifteen (15) days without the consent of the council. (Prior code § 2-2-5)

2.08.060 Failure to sign documents.
If the mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring his or her signature for five days consecutively, then a majority of the members of the council may, at any regular or special meeting, authorize the mayor pro tem, or in his or her absence, an acting mayor to sign such ordinance, resolution, contract, warrant, demand or other document or instrument which when so signed shall have the same force and effect as if signed by the mayor. (Prior code § 2-2-6)

Chapter 2.12

TOWN MANAGER

Sections:

2.12.010 Appointment.
2.12.020 General duties.
2.12.030 Employees.
2.12.040 Officers and departments.
2.12.050 Chief of police, attorney and auditor.
2.12.060 Contracts.
2.12.070 Purchases.
2.12.080 Appropriations, levies and accounts.
2.12.090 Inventories and properties.
2.12.100 Reports, notices and publications.
2.12.110 Elections.
2.12.120 Records and certificates.
2.12.130 Collector and comptroller.
2.12.140 Maps and plats.
2.12.150 Offices.
2.12.160 Absence from town.
2.12.170 Inconsistencies with existing chapters.

2.12.010 Appointment.

The town manager shall be appointed by the town council for such time and for such period as shall be determined by the council of the town. (Ord. 66 § 1, 1984: prior code § 3-2-1(A))

2.12.020 General duties.

A. The manager shall have and exercise all powers and duties assigned to him or her by the statutes of the state of Arizona, and such other authority, powers and duties as may be granted by the council from time to time.
B. The manager shall be charged with the enforcement of all laws and ordinances within the municipality insofar as their enforcement is within the powers of the town.
C. The manager shall attend all meetings of the council, shall keep the council informed as to the affairs of the town and shall recommend to the council such actions as may be necessary or expedient for the welfare of the town. (Ord. 66 § 2, 1984: prior code § 3-2-1(B))

2.12.030 Employees.

The manager shall hire and discharge all employees authorized by the council to be hired, at such compensation as may be set or authorized by the council. All employees shall perform their duties subject to the direction of the manager or to that of the superior to whom the manager may assign such employee. The manager may delegate to any other official or employee the authority to hire or

discharge any employees so authorized. (Ord. 66 § 3, 1984: prior code § 3-2-1(C))

2.12.040 Officers and departments.

A. All appointive offices (department heads) of the town shall be filled by appointment by the manager, except where otherwise provided by law, and the manager shall report to the mayor and council such appointment or any removal from office, made by him or her as soon as possible after the appointment or removal.
B. Every administrative department of the town shall be under the supervision and control of the manager, who shall have power to remove from office any officer appointed by the manager. (Ord. 66 § 4, 1984: prior code § 3-2-1(D))

2.12.050 Chief of police, attorney and auditor.

The positions of chief of police, town attorney and auditor for the town shall be filled by the town manager, and such selections shall be subject to the advice and approval, by vote, of the common council. (Ord. 124 § 7, 1998: Ord. 66 § 5, 1984: prior code § 3-2-1(E))

2.12.060 Contracts.

A. The manager shall examine all proposed contracts to which the town may be a party and may sign on behalf of the town any contract authorized by the council, except where the council directs that some other officer or officers shall do so.
B. It is the duty of the manager to assure that all terms of any contract to which the town is a party are fully performed by all parties to the contract. (Ord. 66 § 6, 1984: prior code § 3-2-1(F))

2.12.070 Purchases.

A. The manager shall be general purchasing agent for the town, and, except where specific provision to the contrary is made by law or by the council, the manager shall make all purchases of supplies, materials and equipment authorized by the council, in the manner prescribed by statute, and subject to the limitations imposed by statute.
B. No purchase shall be made or obligation incurred except upon authorization of the council, and no expense shall be incurred, except for the purpose for which no prior appropriation is required by law, if the amount thereof is not covered by an unexpended appropriation for the purpose. (Ord. 66 § 7, 1984: prior code § 3-2-1(G))

2.12.080 Appropriations, levies and accounts.

It is the duty of the manager to:

A. Cause to be prepared each year the annual budget and any necessary appropriation ordinance in time for consideration and enactment by the council;
B. Prepare any necessary tax ordinances for enactment by the council;

C. Maintain current books of account of all funds collected and expended by the town, which books of account shall at all times show balances on hand;
D. Keep current accounts showing at all times the fiscal condition of the town, including current and anticipated expenses, appropriations, if any, funds on hand and anticipated revenue; and,
E. Collect all moneys due to the town. (Ord. 66 §§ 8, 9, 1984: prior code § 3-2-1(H))

2.12.090 Inventories and properties.
The manager shall maintain a current inventory showing all real and personal property owned by the town and the location of such properties. The manager is responsible for the care and custody of all property including equipment, buildings, parks and all other property of the town which is not, by statute, assigned to some other officer or body for care and control. (Ord. 66 § 10, 1984: prior code § 3-2-1(I))

2.12.100 Reports, notices and publications.
Except as designated as the responsibility of another staff member or employee of the town, it is the duty of the manager to publish all notices, ordinances or other documents required by law to be published, and to prepare, or cause to be prepared, all reports which the town, or any official thereof, is required by statute or other law to prepare. (Ord. 66 § 11, 1984: prior code § 3-2-1(J))

2.12.110 Elections.
Except as otherwise required of the clerk, the manager shall prepare all notices, ballots and election supplies and materials necessary for and in connection with any election within the town. (Ord. 66 § 12, 1984: prior code § 3-2-1(K))

2.12.120 Records and certificates.
A. Except as otherwise required of another employee or staff member of the town, the manager shall prepare and retain custody of all municipal records required by statute or other law to be kept by the town, and not by a specific officer thereof. Where the statute or other law makes it the duty of a specific officer to prepare, maintain or retain such records, the manager shall make available to such officer all necessary clerical assistance for the preparation of such records and shall make available a place for the custody and retention of such records. In compliance herewith, the manager shall make available to the clerk any additional clerical or secretarial assistance necessary for the preparation and retention of the transcripts of council proceedings, the record of ordinances and all other documents which by law the clerk is required to keep. The manager shall perform similar service for any person required by ordinance, statute or other law to prepare, maintain and retain any records or other documents related to the town.
B. Except as otherwise required by statute or other law, where the statute or other law requires or provides for certification of any records or other documents of the town by any officer of the town, the manager shall cause

such records or other documents to be properly prepared and presented to such officer for his or her signature. (Ord. 66 § 13, 1984: prior code § 3-2-1(L))

2.12.130 Collector and comptroller.

The manager shall be ex officio town collector and comptroller, unless such offices, or either of them, are otherwise duly filled by appointment. The manager shall perform the duties of each office in the absence of such appointment to either office. (Ord. 66 § 14, 1984: prior code § 3-2-1(M))

2.12.140 Maps and plats.

The manager shall cause to be kept a complete set of maps and plats showing the location of all town utilities and other municipal properties, all streets and other public places and all lots or parcels of land subdivided according to law. (Ord. 66 § 15, 1984: prior code § 3-2-1(N))

2.12.150 Offices.

The manager shall maintain an office in the town hall and shall spend such time in the performance of his or her duties as may be required by the council. (Ord. 66 § 16, 1984: prior code § 3-2-1(O))

2.12.160 Absence from town.

In the event that the manager shall be absent from the town, or shall be otherwise incapacitated and therefore be unable to perform the usual and customary duties of his or her position, then the mayor shall act as manager during such absence or incapacity. (Ord. 66 § 17, 1984: prior code § 3-2-1(P))

2.12.170 Inconsistencies with existing chapters.

In the event that any part of this chapter is inconsistent with any part of any previously existing article or section of this code, then this section shall prevail. (Ord. 66 § 18, 1984: prior code § 3-2-1(Q))

Chapter 2.16

TOWN CLERK

Sections:

2.16.010 Records.
2.16.020 Public inspection of records.
2.16.030 Monthly reports.
2.16.040 Minutes.
2.16.050 Ordinances, resolutions, budgets and notices.
2.16.060 Election official.
2.16.070 Licenses.
2.16.080 Administrative duties.

2.16.010 Records.

The clerk shall keep a true and correct record of all business transacted by the council and any other records that either pertain to the business of the town or that the council directs. The clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature. (Prior code § 3-2-2(A))

2.16.020 Public inspection of records.

The clerk shall keep convenient for public inspection all public records and public documents under his or her control, as provided by state statute. (Prior code § 3-2-2(B))

2.16.030 Monthly reports.

The clerk shall prepare and collect from town officers and employees such monthly reports prepared in such manner and to include such information as may be directed by the council. (Prior code § 3-2-2(C))

2.16.040 Minutes.

The clerk shall prepare or cause to be prepared all minutes of council proceedings and ensure their correctness and accuracy. (Prior code § 3-2-2(D))

2.16.050 Ordinances, resolutions, budgets and notices.

The clerk shall process, record, file, publish, and if required by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the council. (Prior code § 3-2-2(E))

2.16.060 Election official.

The clerk shall be the town election official and perform those duties required by state statute. (Ord. 124 § 8 (part), 1998; prior code § 3-2-2(F))

2.16.070 Licenses.

The clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code. (Ord. 124 § 8 (part), 1998; prior code § 3-2-2(G))

2.16.080 Administrative duties.

The clerk shall perform those administrative responsibilities and duties that are conferred upon him or her by the council in addition to those specified in this code. (Ord. 124 § 8 (part), 1998; prior code § 3-2-2(H))

Chapter 2.20

CHIEF OF POLICE

Sections:

2.20.010 Generally.

2.20.010 Generally.

The chief of police shall be the town marshal and shall perform such duties as may be required of him or her by the common council or by state statute. (Ord. 124 § 9, 1998: prior code § 3-2-3)

Chapter 2.24

TOWN ATTORNEY

Sections:

2.24.010 Duties.

2.24.010 Duties.

The attorney shall act as the legal counselor and advisor of the council and other town officials, and as such shall give his or her opinion in writing when requested. He or she shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the council. He or she shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the council. He or she shall return, within ten days, all ordinances and resolutions submitted to him or her for consideration by the council, with his or her approval or disapproval as to form noted thereon, together with his or her reasons therefore. He or she shall prosecute and defend all suits, actions or causes where the town is a party, and shall report to the council, when required, the condition of any suit or action to which the town is a party. (Prior code § 3-2-5)

Chapter 2.28

TOWN ENGINEER

Sections:

2.28.010 Duties.

2.28.010 Duties.

The engineer shall have charge of the town streets, sewers and waterworks and shall perform such duties as may be required of him or her by law and such other duties as the council may deem necessary. (Prior code § 3-2-4)

Chapter 2.32

TOWN OFFICERS GENERALLY

Sections:

2.32.010 Offices created.
2.32.020 Treasurer and collector of taxes.
2.32.030 Additional officers.
2.32.040 Bond.
2.32.050 Vacancies—Holding more than one office.
2.32.060 Additional powers and duties.

2.32.010 Offices created.

There are created the offices of town clerk, town marshal, town engineer and town attorney, who shall be appointed by the common council and who shall serve at the pleasure of the council; provided, that the affirmative vote of at least three members of the council shall be required to make any appointment. (Ord. 124 § 6, 1998: prior code § 3-1-1)

2.32.020 Treasurer and collector of taxes.

The town clerk shall act as treasurer and the town marshal shall act as collector of taxes. (Prior code § 3-1-2)

2.32.030 Additional officers.

The council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or state statute. (Prior code § 3-1-3)

2.32.040 Bond.

The council shall require each officer of the town to give bond for the due discharge of his or her duties in such sums and with such security as it may direct and approve as determined by resolution and the town shall pay the costs of such bond. (Prior code § 3-1-4)

2.32.050 Vacancies—Holding more than one office.

Any vacancy that shall occur in any town office shall be filled by appointment by the council, provided that one person may hold more than one office and that at the discretion of the council, the functions of a town official may be validly performed and discharged by a deputy or another town official, or an otherwise qualified individual not holding office but employed at the pleasure of the council. (Prior code § 3-1-5)

2.32.060 Additional powers and duties.

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties, and hold such other office

as may be provided by the council through ordinance, resolution or order. (Prior code § 3-1-6)

Chapter 2.36

MAGISTRATE'S COURT

Sections:

2.36.010 Established—Jurisdiction.
2.36.020 Town magistrate— Appointment and term.
2.36.030 Town magistrate—Powers and duties.
2.36.040 Court proceedings.
2.36.050 Bail.

2.36.010 Established—Jurisdiction.

There is established in the town a magistrate's court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the town is located of violation of laws of the state committed within the limits of the town. (Prior code § 5-1)

2.36.020 Town magistrate— Appointment and term.

The presiding officer of the magistrate court and such other magistrates as deemed necessary by the council shall be appointed by the council. A magistrate shall serve for a term of two years, with the beginning and end of the term to be specified at the time of appointment. During such term, a magistrate may be removed only for cause. (Ord. 71 § A, 1985: prior code § 5-2-1)

2.36.030 Town magistrate—Powers and duties.

The powers and duties of the magistrate shall include:

A. The powers and duties set forth and conferred upon him or her under the provisions of the state constitution and statutes, this code, and the ordinances and resolutions of the town;
B. The keeping of a docket in which shall be entered each action and the proceedings of the court therein;
C. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other moneys as provided by law;
D. Payment of all fees, fines, penalties and other moneys collected by the court to the treasurer;
E. Submitting a monthly report to the council summarizing court activities for that month;
F. Preparation of a schedule of civil traffic violations, listing a specific deposit for each violation. The magistrate shall designate a person, a specific location and the hours when such person will be at the location to accept proper deposits for civil traffic violations for and on behalf of the magistrate court;
G. Designation of a deputy other than a law enforcement officer and a specific location at which the deputy shall, during hours when the court is not open, set the amount of bail in accordance with the foregoing schedule and collect such bail, or accept proper bail bonds in lieu thereof, for and on behalf of the court. (Ord. 124 § 13, 1998; prior code § 5-2-2)

2.36.040 Court proceedings.

A. The proceedings shall be conducted in accordance with the state constitution, the applicable state statutes and rules of the state supreme court pertaining to police courts. The proceedings shall also be conducted in accordance with the rules of criminal procedure for the superior court, unless otherwise prescribed, and providing this code and resolutions of the town are not in conflict therewith.

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

C. If the magistrate is satisfied that the offense complained of has been committed by the person charged, he or she shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the magistrate may subpoena and examine witnesses as to the truth of the complaint. (Prior code § 5-3-1)

2.36.050 Bail.

The defendant, at any time after arrest, and before conviction, shall be admitted to bail, if bailable. (Prior code § 5-3-2)

Chapter 2.40

POLICE DEPARTMENT

Sections:

2.40.010 Created—Composition.
2.40.020 Appointment of officers.
2.40.030 Compensation of officers.
2.40.040 Departmental rules and regulations.
2.40.050 Duties of police department.
2.40.060 Answering calls outside the town.
2.40.070 Charges for fingerprints and police reports.

2.40.010 Created—Composition.

There is created a police department for the town which shall consist of a chief of police who shall also serve as town marshal, and as many policemen as may from time to time be deemed necessary by the council for the safety and good order of the town. (Prior code § 4-1-1)

2.40.020 Appointment of officers.

The chief of police shall be appointed by the council and shall serve at the pleasure of the council. The council shall appoint as many policemen as may from time to time be deemed necessary for the safety and good order of the town. (Prior code § 4-1-2)

2.40.030 Compensation of officers.

The chief of police and the policemen of the town shall be compensated as determined by the council. The chief of police shall not receive any perquisites, commissions or compensations for his services as chief of police, town marshal or tax collector, except as the council may prescribe. (Prior code § 4-1-3)

2.40.040 Departmental rules and regulations.

The police department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the council. (Prior code § 4-1-4)

2.40.050 Duties of police department.

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

A. Enforce this code and the statutes of the state of Arizona within jurisdictional limits as conferred by law and to arrest and charge the violators thereof;
B. Take charge of the town jail and all prisoners confined therein, and all those who are sentenced to labor on the streets or public works of the town, and to see that orders and sentences with reference to such are fully executed and complied with;

C. Deliver any persons who may be confined in the jail upon conviction of a crime committed under the jurisdiction of the magistrate's court to any authorized officer of the town who shall at any time demand such prisoners. Any such authorized person so demanding and receiving such prisoners shall work such prisoners on the streets or alleys of the town or on any and all authorized work as may be determined by the council;
D. Render such account of the police department, its duties, and receipts as may be required by the council, and keep records of the office open to inspection by the council at any time;
E. Direct traffic and ensure the orderly flow thereof and investigate and make reports of traffic accidents;
F. Inspect and ascertain the condition of traffic control devices of every description which have been erected within the town on the authority of the council and to notify the council of any defects found therein;
G. Perform such additional duties as may be required by the council. (Prior code § 4-1-5)

2.40.060 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 or her discretion shall deem it necessary to protect lives and property. (Prior code § 4-1-6)

2.40.070 Charges for fingerprints and police reports.

There shall be a fee for the following services:
A. Fingerprints: five dollars ($5.00) per individual, children under thirteen (13) free.
B. Police reports: twenty-five dollars ($25.00) for each report, plus twenty-five cents ($0.25) per page. (Ord. 77 § E, 1986: prior code § 4-1-7)

Chapter 2.44

FIRE DEPARTMENT

Sections:

2.44.010 Created—Composition.
2.44.020 Departmental rules and regulations.
2.44.030 Compensation.
2.44.040 Appointment, powers and duties of chief.
2.44.050 Appointment and duties of firefighters.
2.44.060 Entry upon adjacent property.
2.44.070 Equipment.
2.44.080 Providing fire protection outside the town.
2.44.090 Acknowledgment of right of way.
2.44.100 Fire alarms.
2.44.110 Orders of fire chief.

2.44.010 Created—Composition.

There is created a volunteer fire department for the town which shall consist of a chief, an assistant chief, and as many firefighters as may be deemed necessary from time to time by the council. (Ord. 124 § 10 (part), 1998; prior code § 4-2-1)

2.44.020 Departmental rules and regulations.

The fire department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the council. (Prior code § 4-2-2)

2.44.030 Compensation.

The fire chief, assistant fire chief, and volunteer firefighters shall be compensated as may be determined by the council. (Ord. 124 § 10 (part), 1998; prior code § 4-2-3)

2.44.040 Appointment, powers and duties of chief.

The chief of the fire department shall be appointed by the council and shall serve during the pleasure of the council. It shall be the duty of the chief to:

A. Be accountable to the council for the personnel, morale and general efficiency of the fire department;
B. Direct the operations of the fire department, subject to the rules and regulations thereof;
C. Be present at all fires, if possible, and plan and direct the extinguishment thereof. During the progress of a fire the authority of the fire chief shall be absolute in all matters directly concerning the extinguishment of the fire and the disposition of property endangered by it;
D. Conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the

town, water supplies, and all other matters generally considered essential to good firemanship and safety of life and property from fire;

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

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

G. Keep complete records of all fires, inspections, apparatus and equipment, personnel and other information about the work of the department open to council inspection and furnish to the council such information upon request;

H. Make a complete annual report, in writing, to the council within one month after the close of the fiscal year, and such report shall include the information specified in subsection G of this section, together with comparative data for previous years and recommendations for improving the effectiveness of the department;

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

J. Demote, dismiss or expel any officer or member of the department for neglect or refusal to perform departmental duties, subject to the right of any members so demoted, dismissed or expelled to appeal to the council. (Prior code § 4-2-4)

2.44.050 Appointment and duties of firefighters.

Firefighters shall be appointed at such time and in such manner as the common council may deem necessary. Such appointees shall be able-bodied citizens whose residence or business activities are normally within the confines of the town and who have telephones in their homes. The firefighters shall be subject to supervision by the fire chief or the assistant or deputy fire chiefs, and shall be accountable to the fire chief. (Ord. 124 § 11, 1998: prior code § 4-2-5)

2.44.060 Entry upon adjacent property.

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, and no person shall hinder, resist or obstruct any firefighter in the discharge of his or her duty as hereinbefore provided. (Ord. 124 § 10 (part), 1998; prior code § 4-2-6)

2.44.070 Equipment.

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. Recommendations concerning apparatus and

equipment needed shall be made by the chief, and after approval by the council, such apparatus and equipment shall be purchased in such manner as may be designated by the council. All equipment of the department shall be safely and conveniently housed in such place or places as may be designated by the council. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully take away or conceal any article used in any way by the department. No person shall enter any place where the fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having special permission of, an officer or authorized member of the department. No fire apparatus or equipment shall be hired out or permitted to leave the fire station except in response to a call for aid at a fire within the corporate limits of the town, or in response to a call for aid at a fire in an area authorized for fire protection service or mutual aid under provisions of Section 2.44.080. (Prior code § 4-2-7)

2.44.080 Providing fire protection outside the town.

The council may enter into agreements or contracts to furnish fire protection outside the town or enter into mutual aid agreements, and the fire department is authorized to render fire fighting service pursuant to the terms of such agreements or contracts. (Prior code § 4-2-8)

2.44.090 Acknowledgment of right of way.

Each member of the fire department who drives a private motor vehicle should be issued suitable insignia which may be attached to such motor vehicle. All motorized vehicles of the fire department and all motor vehicles of department members shall have right-of-way over all other traffic when responding to a fire alarm. No unauthorized vehicle shall follow within six hundred (600) feet of any motorized fire department vehicle or apparatus. No person may stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite to the entrance to any fire station within seventy-five (75) feet of the entrance when properly posted, or within fifteen (15) feet of a fire hydrant within the town. No person shall drive any motor vehicle over a fire hose except upon specific orders from the fire chief or a firefighter. (Ord. 124 § 12, 1998: prior code § 4-2-9)

2.44.100 Fire alarms.

Suitable arrangements or equipment shall be provided for citizens to turn in an alarm and for notifying all members of the department so that they may promptly respond. It is unlawful for any person knowingly to turn in or cause to be turned in a false alarm. (Prior code § 4-2-10)

2.44.110 Orders of fire chief.

It is unlawful for any firefighter or citizen to refuse to obey an order issued by the fire chief pursuant to his or her authority. (Ord. 124 § 10 (part), 1998; prior code § 4-2-11)

Chapter 2.48

EMERGENCY MANAGEMENT AND DISASTER PREPAREDNESS

Sections:

2.48.010 Compliance and cooperation required.
2.48.020 Promulgation of orders, rules and regulations.
2.48.030 Emergency plan.
2.48.040 Cooperation with other agencies.

2.48.010 Compliance and cooperation required.

The town shall cooperate and comply with appropriate federal and state statutes, rules and regulations, and orders relating to emergency management to help the town and its citizens respond to and recover from disasters, emergencies or other contingencies. (Ord. 124 § 14 (part), 1998: prior code § 6-1-1)

2.48.020 Promulgation of orders, rules and regulations.

The town may make, amend and rescind orders, rules and regulations necessary for emergency functions, but such shall not be inconsistent with orders, rules and regulations promulgated by the governor. (Ord. 124 § 14 (part), 1998: prior code § 6-1-2)

2.48.030 Emergency plan.

The common council shall establish and provide for emergency management within its jurisdiction in accordance with state emergency plans and programs. The common council may appoint a director of emergency management who shall be responsible for the organization, administration and operation of local emergency management programs, subject to the direction and control of the common council. (Ord. 124 § 14 (part), 1998: prior code § 6-1-3)

2.48.040 Cooperation with other agencies.

The town and its emergency management director shall cooperate with federal, state and other local government agencies in responding to and recovering from disasters, emergencies or other contingencies. (Ord. 124 § 14 (part), 1998: prior code § 6-1-4)

Chapter 2.52

EMERGENCY SERVICES

Sections:

2.52.010 Definitions.
2.52.020 Powers.
2.52.030 Enforcement.
2.52.040 Immunity.

2.52.010 Definitions.

In this chapter, unless the context otherwise requires:

"Emergency functions" means warning and communications services, relocation of persons from stricken areas, radiological defense, temporary restoration of utilities, plant protection, transportation, welfare, engineering, search, rescue, health, law enforcement, firefighting and other activities necessary or incidental thereto.

"Emergency services" means the preplanning necessary to carry out emergency functions, other than functions for which military force or federal agencies are primarily responsible to prevent or minimize the loss of lives or property caused by disasters of every kind.

"Local emergency" means the existence of condition of disaster or of extreme peril to the safety of persons or property within the territorial limits of the town, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the town as determined by the council and which require the combined efforts of other political subdivisions.

"Private sector" means all industry, commerce, business or banking; all services other than those provided by the government; and all persons other than those in governmental agencies at any level.

"State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons or property within the state caused by air pollution, fire, flood or floodwater, storm, epidemic, riot, earthquake or other causes, except those resulting in a state of war emergency, which are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city or town, and which require the combined efforts of the state and the political subdivision.

"State of war emergency" means the condition which exists immediately whenever this nation is attacked or upon receipt by this state of warning from the federal government indicating that such an attack is imminent. (Ord. 75 § 1, 1986: prior code § 3-5-1)

2.52.020 Powers.

A. The council, pursuant to the provisions of Section 26-307, Arizona Revised Statutes, has the power to make, amend and rescind orders, rules and regulations necessary for emergency functions and regulations but such shall not be inconsistent with orders, rules and regulations promulgated by the

governor of this state. Such orders, rules or regulations shall be effective when a copy is filed in the office of the town clerk. Existing resolutions, rules and regulations in conflict with Title 26, Chapter 2, Article 1, Arizona Revised Statutes, are suspended during the time of emergency and to the extent that they may conflict.

B. Pursuant to subsection C of Section 26-307, Arizona Revised Statutes, in a state of war emergency, the town may waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, purchasing and distributing supplies, materials and facilities and appropriating and expending public funds when the town determines and declares that strict compliance with such procedures and formalities may prevent, hinder or delay mitigation of the effects of the state of war emergency.

C. In the absence of specific authority in state emergency plans and programs, the town will take emergency measures as deemed necessary to carry out the provisions of Title 26, Chapter 2, Article 1, Arizona Revised Statutes.

D. This chapter constitutes authority, pursuant to the provisions of Section 26-311, Arizona Revised Statutes, for the mayor to declare an emergency and, during such emergency, to govern by proclamation and to impose all necessary regulations to preserve the peace and order of the town, including, but not limited to:
   1. Imposition of curfews in all or portions of the town;
   2. Ordering the closing of any business;
   3. Closing to public access any public building, street or other public place;
   4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the county for assistance.

In periods of local emergency, including an emergency declared by the mayor, pursuant to Section 26-311(A), Arizona Revised Statutes, the town has full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans or agreements therefore. (Ord. 75 § 2, 1986: prior code § 3-5-2)

2.52.030 Enforcement.

The law enforcement authorities of the town shall enforce all orders, rules and regulations issued pursuant to this chapter. (Ord. 75 § 3, 1986: prior code § 3-5-3)

2.52.040 Immunity.

The town, its officers, agents, employees and volunteers duly enrolled or registered with the town emergency services, and unregistered persons placed into service during a state of war emergency, are immune from liability as provided in Section 26-314, Arizona Revised Statutes. (Ord. 75 § 4, 1986: prior code § 3-5-4)

Chapter 2.56

PERSONNEL SYSTEM

Sections:

2.56.010 Merit system created— Scope.
2.56.020 Conditions of employment.
2.56.030 Rules and regulations.
2.56.040 Political contributions.

2.56.010 Merit system created— Scope.

There is adopted a merit system for the employees of the town, the provisions of which shall apply to all employees of the town except elected officials, officers of the town appointed by the council, persons engaged under contract to supply expert, professional or technical services, temporary employees, volunteer firemen and volunteer personnel who receive no regular compensation from the town. (Prior code § 3-3-1)

2.56.020 Conditions of employment.

The appointment, promotion and tenure of every employee shall be conditioned solely on merit and fitness and the satisfactory performance of the duties and responsibilities assigned. No employee or applicant for employment shall be discriminated against on the basis of race, color, religion, sex, or political affiliation. (Prior code § 3-3-2)

2.56.030 Rules and regulations.

The council may adopt by resolution rules and regulations to give effect to this section, which may be modified or changed from time to time, but such rules and regulations shall follow the generally accepted principles of good personnel administration. (Prior code § 3-3-3)

2.56.040 Political contributions.

No officer, official or employee of the town shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct of indirect, for any political campaign or personal gain. (Prior code § 3-3-4)

3. REVENUE AND FINANCE

Title 3

REVENUE AND FINANCE

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Chapter 3.04

FISCAL PROVISIONS GENERALLY

Sections:

3.04.010 Claims against the town— Presentation.
3.04.020 Claims against the town— Approval by council.

3.04.010 Claims against the town— Presentation.

All claims against the town shall be in writing, itemized and sworn to by the party presenting such claims, and must be certified to by the person ordering goods or services, and filed with the clerk on or before the regular meeting each month. (Prior code § 3-4-1)

3.04.020 Claims against the town— Approval by council.

No claim against the town shall be paid until audited by the council; nor shall any claim be ordered paid, except at a regular monthly council meeting; nor shall any warrants be drawn or issued or delivered, except for salaries or other fixed charges, until the claim for which it is drawn has been audited and allowed by the council. (Prior code § 3-4-2)

4. RESERVED

Title 4

(RESERVED)

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5. BUSINESS LICENSES AND REGULATIONS

Title 5

BUSINESS LICENSES AND REGULATIONS

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Chapter 5.04

BUSINESS LICENSES GENERALLY

Sections:

5.04.010 Adoption by reference.
5.04.020 Fees.
5.04.030 Application.
5.04.040 Enforcement.
5.04.050 Civil violation—Penalty.
5.04.060 Civil violation—Order to correct.
5.04.070 Notice of civil violation.
5.04.080 Continued duty to correct.
5.04.090 Collection of civil monetary penalty.

5.04.010 Adoption by reference.

That certain document known as the "business license ordinance," three copies of which are on file with the town clerk, is referred to, adopted and made a part hereof as if fully set forth in this chapter. (Ord. 117 § 2, 1997)

5.04.020 Fees.

Initially, there shall be no application or renewal fee for a business license. The town shall pay one dollar ($1.00) to a bona fide applicant for a business license. (Ord. 117 § 3, 1997)

5.04.030 Application.

Businesses already existing within the town or businesses located outside the town which conduct business within the town shall have a period of six months from the effective date of the ordinance codified in this chapter to make application for a business license. Other persons or businesses which intend to do business within the town after the passage of said ordinance, shall make application for a business license within three months from the effective date of said ordinance. (Ord. 117 § 4, 1997)

5.04.040 Enforcement.

The business license ordinance shall be enforced by the town zoning administrator or his or her designees; and they shall, when the interests of the town so require, make investigations in connection with any matter referred to in the business license ordinance and render written reports and issue civil citations. (Ord. 117 § 5, 1997)

5.04.050 Civil violation—Penalty.

Any person, business or other entity that violates this chapter or fails to comply with any order made hereunder shall be guilty of a civil violation. Following notice of such civil violation, the town magistrate court shall hold a hearing and

determine by a preponderance of the evidence, whether such person is guilty of violating this chapter. In cases where the court adjudges a person responsible of a violation, a civil monetary penalty shall be levied as follows:

A. The first day of violation, a penalty not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100.00);
B. The second day of violation, up to two hundred dollars ($200.00);
C. The third day of violation, up to three hundred dollars ($300.00);
D. Each additional day of violation in excess of three days, up to three hundred dollars ($300.00) per day. (Ord. 117 § 6, 1997)

5.04.060 Civil violation—Order to correct.

Before a notice of civil violation may be served, the town must issue an order to correct violation to the property owner, or to any other person causing, allowing or participating in the violation. The order to correct violation shall request voluntary correction of the violation and shall include, at a minimum, the following information:

A. The name and address of the property owner or other person to whom the order to correct violation is directed. The order to correct violation may be personally served or sent by first class mail to the person, or it may be posted on the affected property or structure; and
B. The physical property address of the land upon which the violation has occurred or is occurring; and
C. A description of the violation, including a reference to Ordinance No. 117 and the section of the business license ordinance; and
D. A brief statement of the action required to be taken to correct the violation. (Ord. 117 § 7, 1997)

5.04.070 Notice of civil violation.

After the date or time by which the correction should have been corrected as stated in the order to correct violation or after a reasonable time, a notice of civil violation shall be served upon the person to whom it is directed either personally or by mailing a copy by certified mail, return receipt requested, to such person at his or her last known address, or by posting the notice of civil violation conspicuously on the affected property or structure. The notice of civil violation shall contain the following information:

A. The name and address of the property owner or other person to whom the order to correct violation is directed. The order to correct violation may be personally served or sent by first class mail to the person, or it may be posted on the affected property or structure; and
B. The physical property address of the land upon which the violation has occurred or is occurring; and
C. A description of the violation, including a reference to Ordinance No. 117 and the section of the business license ordinance;
D. A brief statement of the action required to be taken to correct the violation; and

E. A statement of the civil monetary penalties as set forth in Section 5.04.040. (Ord. 117 § 8, 1997)

5.04.080 Continued duty to correct.

Payment of a civil monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the town. (Ord. 117 § 9, 1997)

5.04.090 Collection of civil monetary penalty.

The magistrate court shall have the primary duty to collect civil monetary penalties pursuant to this chapter. In addition, the town attorney, on behalf of the town, is authorized to collect the civil monetary penalties assessed pursuant to this section by use of appropriate legal remedies. (Ord. 117 § 10, 1997)

Chapter 5.08

CABLE TELEVISION FRANCHISES

Sections:

5.08.010 Definitions.
5.08.020 Authority to grant license.
5.08.030 Limitation of license.
5.08.040 Application for license.
5.08.050 Acceptance of the license.
5.08.060 System design.
5.08.070 Construction of system.
5.08.080 Operation and maintenance of system.
5.08.090 Subscriber rates.
5.08.100 License fee.
5.08.110 Performance bond.
5.08.120 Liability and indemnification.
5.08.130 Security fund.
5.08.140 Duration of license.
5.08.150 Terminations.
5.08.160 Options upon expiration or termination.
5.08.170 Removal or abandonment of property.
5.08.180 Rights of individuals protected.
5.08.190 Renegotiation sessions.
5.08.200 Unlawful acts.
5.08.210 Amendments to chapter.
5.08.220 Compliance with rules and regulations of FCC.

5.08.010 Definitions.

For the purpose of this chapter, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

"Applicant" means any person that applies for a license.

"Basic subscriber services" includes, but is not limited to, the following:

1. The redistribution of all broadcast signals provided for herein;
2. The distribution of the public, educational and local government access channel signals;
3. The distribution of the local origination channel signals;
4. The distribution of such other cablecast channel signals as are required by the FCC; and
5. The installation, reconnection and additional connections, and transfer fees of subscriber service outlets.

"Cable television system" or **"cable system"** or **"CATV"** means a system of antennas, cables, amplifiers, towers, microwave links, wave guides, laser

beams, satellites, or any other conductors, converters, equipment or facilities, designed and constructed or used for the purpose of:

1. Collecting and amplifying local and distant broadcast television or radio signals and redistributing them;
2. Distributing original cablecast programming not received through television broadcast signals;
3. Distributing television pictures, film and videotape programs, not received through broadcast televisions signals, whether or not encoded or processed to permit reception by only selected receivers;
4. Receiving and distributing all other signals: analogue, digital, voice and audio-visual.

"Channel" means a band of frequencies, in the electromagnetic spectrum, which is capable of carrying either one video signal, several audio signals, numerous digital signals, or some combination of such signals.

"Chief administrative officer" means the town manager or his or her designee.

"Council" means the town council of the town of Springerville, Arizona, or such representative person or entity as may be designated initially or at some future date to act on cable television matters.

"FCC" means the Federal Communications Commission, or a designated representative.

"Gross subscriber revenues" means any and all compensation and other consideration received directly or indirectly, in payments or lump sum, by the licensee from subscribers in providing basic subscriber services.

"License" means the nonexclusive right and authority to construct, maintain and operate a cable television system through use of the public streets, public utility easements, other public rights of way, or public places in the town.

"Licensee" means the person granted a license by the council and the lawful successor, transferee or assignee of the person.

"Person" means any natural person and all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, common law trust, societies and/or any other legal entity.

"Property of licensee" means all property owned, installed or used within the town by a licensee in the conduct of a cable television system business.

"Street" means the surface, the air space above the surface and the area below the surface of any public street, other public right-of-way or public place, including utility easements.

"Subscriber" means any person receiving for any purpose any service of the licensee's cable television system including, but not limited to, the conventional cable television system service of redistribution of television broadcast, radio signals, licensee's original cablecasting, and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile distribution, pay television and police, fire and similar public service communication.

"Total gross receipts" means any and all compensation and other consideration collected or received or in any manner gained or derived by licensee from the operation of its cable system within the corporate limits of

the town and such corporate limits as now exist or may be established hereafter.

"Town" means the town of Springerville, a municipal corporation of the state of Arizona, in its present incorporated form or in any later reorganized, consolidated, enlarged or re-incorporated form.

In the event the meaning of any word or phrase not defined herein is uncertain, the definitions contained in FCC Rules and Regulations shall apply. (Ord. 86 § 1, 1987)

5.08.020 Authority to grant license.

A. A nonexclusive license to install, construct, operate and maintain a cable television system on streets, public utility easements, other public rights-of-way, or public places within the town may be granted by the council.

B. No provision of this chapter may be deemed or construed to require the granting of a license. (Ord. 86 § 2, 1987)

5.08.030 Limitation of license.

A. No privilege or exemption shall be granted or conferred by any license pursuant to this chapter except those specifically provided herein.

B. Any privilege granted under any such license to use any street or other public property shall be subordinate to any prior lawful occupancy of the streets or other public property.

C. Any such license granted shall not relieve the licensee of any obligations involved in obtaining the necessary pole or conduit space from any department of the town, utility company, or from others maintaining poles, conduits or utilities in streets.

D. Any such license shall be a privilege to be held in personal trust by the original licensee. Such license cannot in any event be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, without prior consent of the council expressed by resolution, and then only under such conditions as may therein be prescribed. Any such transfer or assignment shall be made only by an instrument in writing, such as a bill of sale, or similar document, a duly executed copy of which shall be filed in the office of the town clerk within thirty (30) days after such transfer or assignment. The proposed assignee must show financial responsibility to the satisfaction of the council and must agree to comply with all provisions of this chapter, and meet, if the assignee acquires the entire cable television system, all of the qualifications that must be met by an original licensee; and provided, further, that no such consent shall be required for a transfer in trust, mortgage, or other hypothecation, in whole or in part, to secure an indebtedness, except that when such hypothecation shall exceed fifty (50) percent of the market value of the property used by the licensee in the conduct of the cable television system, prior consent of the council shall be required for such transfer.

E. In the event that licensee is a corporation, prior approval of the council, expressed by ordinance, shall be required where there is an actual change in control or where ownership of more than fifty (50) percent of the voting stock of licensee is acquired by a person or group of persons acting in concert, singly or collectively. Any such acquisition occurring without prior approval of the council shall constitute a failure to comply with Section 5.08.040.
F. The licensee shall be subject to any tax or fee now imposed or hereafter imposed by the town on all businesses of the same or similar class.
G. The licensee's service policies shall show no preferential or discriminatory practices and shall be on file with the town clerk.
H. Time shall be of the essence of any such license granted hereunder. The licensee shall not be relieved of his obligations to comply promptly with any of the provisions of this chapter by failure of the town to enforce prompt compliance.
I. The licensee shall have no recourse whatsoever against the town for any loss, costs, expense or damage arising out of any provision or requirement of this chapter or of any license issued hereunder or because of its enforcement.
J. The licensee shall be subject to all requirements of the town laws, rules, regulations and specifications heretofore or hereafter enacted or established. (Ord. 86 § 3, 1987)

5.08.040 Application for license.

A. Each application for a license to construct, operate or maintain any cable television system in this town shall be filed with the town clerk and shall contain, at a minimum, the following:
   1. An application fee, in an amount set by the council in the licensing ordinance/resolution, shall accompany each application. The application fee shall be in the form of cash, certified or cashier's check, or money order, to pay the cost of studying, investigating, publishing and otherwise processing such application and which shall be in consideration thereof and not returnable or refundable in whole or in part;
   2. The name, address and telephone number of the applicant. If the applicant is a partnership, the main address of each partner shall also be set forth. If the applicant is a corporation, the application shall also state the names and addresses of its directors, main officers, major stockholders (controlling more than five percent of the ownership of the applicant) and associates, and the names and addresses of parent and subsidiary companies;
   3. A statement setting forth in its entirety any and all agreements and understandings, whether formal or informal, written, oral or implied, existing or proposed to exist between the applicant and any person who proposes to have an ownership interest with respect to the proposed license or to the proposed cable television operation. If a license is granted to a person acting as a representative of another person and such information is not disclosed in the original application, such license shall be deemed void and of no force and effect whatsoever;

4. Financial statements, as may be determined by the council, prepared by a certified public accountant, or person otherwise satisfactory to the council, showing applicant's financial status and his or her financial ability to complete the construction and installation of the proposed cable system;
5. A map satisfactory to the council indicating the proposed service area of the incorporated town that will be served with cable television. The licensee's service area shall be approved by the council and shall be described in the licensing ordinance/resolution. The map shall separately and clearly delineate any areas which will be served under normal licensing provisions and under the line extension policy, as well as areas which will not be served, if any. Once this map is approved by the council, the licensee shall publish this map in a newspaper serving the town. The licensee shall clearly explain the conditions under which an area will be serviced by the line extension policy as well as the reasons why any excluded area will not be serviced with a cable system at that time;
6. A proposed line extension policy, approved by the council, attached and made a part of the licensing ordinance, stating the terms, conditions and fees under which cable services will be provided;
7. A proposed time schedule, satisfactory to the council, attached and made a part of the licensing ordinance, for the installation of all equipment necessary to become operational throughout the entire area to be serviced. The proposed time schedule shall meet the minimum FCC construction requirements;
8. A statement or schedule to be approved by the council, setting forth the classifications of rates and charges to be made against subscribers and all rates and charges as to each of the classifications, including installation charges and service charges;
9. A statement or schedule setting forth the number of channels and the television or radio stations and other communication services initially proposed to be received, distributed, relayed or otherwise conveyed over the cable system;
10. A statement satisfactory to the council describing the cable system and specifying the type and capacity of the cable system proposed to be constructed, installed, maintained or operated by the applicant and the proposed location of the cable system. The applicant shall also include a policy statement describing the cable system updating procedures to be used in keeping with technological advances;
11. A detailed description of all previous experience of the applicant in providing cable television system service and in related or similar fields;
12. Any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the council, or by any provision of any other ordinance of the town (and of its charter).

B. Prior to the issuance of a license, the town shall provide for the holding of a public hearing within the proposed service area, following reasonable notice to the public, at which every applicant and its proposals shall be examined

and the public and all interested parties afforded a reasonable opportunity to be heard. Reasonable notice to the public shall include causing notice of the and place of such hearing to be published in a newspaper of general circulation in the proposed service area once a week for two consecutive weeks. The first publication shall be not less than fourteen (14) days before the day of such hearing. If there is no such newspaper in the proposed service area, then notice shall be posted in a conspicuous place in the town hall, if applicable, or other suitable location determined by the respective town for a period of not less than fourteen (14) days before the day of such hearing.

C. In making any determination hereunder as to any application, the council may give due consideration to the quality of the service proposed, rate to subscriber, experience, character, background and financial responsibility of any applicant and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements, and to abide by policy conditions, license limitations and requirements, and any other considerations deemed pertinent by the council for safeguarding the interest of the town and the public. The council, in its discretion, shall determine the award of any license on the basis of such considerations and without competitive bidding. (Ord. 86 § 4, 1987)

5.08.050 Acceptance of the license.

A. No license shall become effective for any purpose unless written acceptance thereof shall have been received by the chief administrative officer. Written acceptance, which shall be in the form and substance approved by the town attorney, shall also be and operate as an acceptance of each and every term and condition and limitation contained in this chapter or otherwise specified as herein provided.

B. The written acceptance shall be received by the chief administrative officer not later than 12:01 p.m. of the thirtieth day next following the effective date of granting of such license.

C. In default of the receiving of such written acceptance as herein required, the licensee shall be deemed to have rejected and repudiated the license. Thereafter, the acceptance of the licensee shall not be received by the chief administrative officer. The licensee shall have no rights, remedies or redress in the premises, unless and until the council, by resolution, shall determine that such acceptance be received, and then upon such terms and conditions as the council may impose.

D. Neither the granting of any license nor any of the provisions contained herein shall be construed to prevent the town from granting any license to any other person. (Ord. 86 § 5, 1987)

5.08.060 System design.

A. Basic Service. The cable television system permitted to be installed and operated hereunder shall comply with the rules and regulations of the Federal Communications Commission and shall:

1. Be operationally capable of relaying to subscriber terminals those television and radio broadcast signals for the carriage of which the licensee is now or hereafter authorized by the Federal Communications Commission;
2. Be constructed with the potential of two-way digital signal transmission;
3. Distribute color television signals which it received in color;
4. Provide at least one channel, without charge, for exclusive use of the town;
5. Provide at least one channel for those education and public access uses now or hereafter required by the Federal Communications Commission;
6. Have a minimum capacity of twenty channels.

B. Non-Basic Services. The cable television system permitted to be installed and operated hereunder, may also engage in, but is not limited to the business of:
   1. Transmitting original cablecast programming not received through television broadcast signals;
   2. Transmitting television pictures, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception to only selected receivers or subscribers;
   3. Transmitting and receiving all other signals, including but not limited to, digital, voice and audio-visual. (Ord. 86 § 6, 1987)

5.08.070 Construction of system.

A. Permits and Licenses. Within thirty (30) days after acceptance of any license, the licensee shall proceed with diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements, microwave carrier licenses, and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable television systems or associated microwave transmission facilities.

B. Copies to Town. Copies of all petitions, applications and reports submitted by the licensee to the Federal Communications Commission, in respect to any matters affecting the licensee's cable television operations under the license, shall also be submitted simultaneously to the chief administrative officer. A copy of any agreement covering the licensed area between the applicant and any public utility providing for the use of any facilities of the public utility, including but not limited to poles, lines or conduits, shall be submitted to the chief administrative officer.

C. Time for Commencement of Construction. Within ninety (90) days after obtaining all necessary permits, licenses and authorizations, including right of access to poles and conduits, licensee shall commence construction and installation of the cable television system. The construction and installation of the cable system shall be in accordance with the timetable set forth in the terms of the license.

D. Extension of Time. By resolution, the council, in its discretion, may extend the time for the construction, installation and operation in the event the licensee,

acting in good faith, experiences delays by reason of circumstances beyond his or her control.

E. Extension of Service. The licensee shall extend its cable service to all newly annexed territory contiguous to the service area within one year after the completion of the main service area. If the annexed area includes an area that cannot be reasonably or economically installed with a cable system, within one year, the licensee shall provide a construction timetable that is acceptable to the town.

F. Inter-Connection. Licensee shall provide arrangements for inter-connection to cable systems operating in the town or in adjoining communities.

G. Performance Standards. The licensee shall construct, operate, maintain and reconstruct the cable system in accordance with the most recent technical performance standards of the FCC.

H. Construction Standards. The licensee shall arrange its lines, cable and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any person. In the event of such interference, the chief administrative officer may require the removal of the licensee's lines, cables and appurtenances from the property in question.

I. Safety. All lines, equipment and connections in, over, under and upon the streets and public ways in the town, wherever situated or located, shall at all times be maintained in a safe and suitable condition, and in good order and repair.

J. Repair of Streets and Public Ways.
   1. Any and all streets and public ways which are disturbed or damaged during the construction, operation, maintenance or reconstruction of the cable television system, shall be promptly repaired by the licensee at its expense and to the satisfaction of the chief administrative officer.
   2. Upon the failure, refusal or neglect of licensee to cause any work or other act required by law or hereunder to be properly completed in, on, over, or under any street or other public place, within any time prescribed therefore, or upon notice given, when no time is prescribed, the chief administrative officer may cause such work or other activity completed in whole or in part to the satisfaction of the chief administrative officer, and upon so doing shall submit to the licensee an itemized statement of the cost thereof. The licensee shall, within thirty (30) days after receipt of such statement, pay to the town the entire amount thereof.

K. Erection of Poles Prohibited. The licensee shall not erect, for any reason, any pole on or along any street or public way of the town except as may be reasonably required or necessary to fill small gaps in the existing aerial utility systems, and only with the approval of the council. Nothing in this provision shall be construed to prohibit the use of existing poles, provided that satisfactory use agreements are entered into between the licensee and the owner of the poles.

L. Undergrounding. In those areas and portions of the town where the transmission or distribution facilities of the utility providing telephone service

or those of the utility providing electric service are underground or hereafter may be placed underground, then the licensee shall likewise construct, operate and maintain all of its transmission and distribution facilities or other means of transmitting signals underground. The town shall not in any manner be responsible for any costs incurred by the licensee in placing licensee's facilities underground.

M. Common Trench. Utilities and cable television shall make every effort to utilize a common trench for undergrounding. Where a developer provides a trench for undergrounding in a new development, the developer must allow the licensee to utilize this trench under essentially the same conditions as are extended to other trench users. (This paragraph is not to be used if a municipality has other ordinances regulating the use of a trench by utilities.) (Ord. 86 § 7, 1987)

5.08.080 Operation and maintenance of system.

A. Free Service. Any licensee shall provide all basic subscriber services and a tie-in connection otherwise known as a “tap” or “drop” without cost to each of the following facilities:
   1. Public and private grammar or high schools licensed by the state, community colleges and universities within the town;
   2. Fire and police stations and other buildings owned and/or controlled by the town used for public nonresidential purposes.

B. System Maps and Lay Out. The licensee shall provide the town, at no cost to the town, up-to-date route maps of a suitable scale showing all transmitting and receiving pickup locations and the location of all underground amplifiers and all trunk and distribution “feeder” lines. Such updated maps shall be supplied to the town at least once each year. Additional current maps shall be provided to the town, at no cost to the town, upon reasonable request.

C. Right to Inspect Books and Records. The chief administrative officer shall have the right to inspect at any time during normal business hours, all books, records, files, maps, plans, income tax returns, financial statements, and other like materials of the licensee which relate to its operation in the town. Access to the aforementioned records shall not be denied by the licensee on the basis that the records contain proprietary information.

D. Reports. The licensee shall submit annual reports no later than sixty (60) days after the licensee's fiscal year, to the chief administrative officer which shall include, but not be limited to:
   1. A summary of the previous year's activities in development of its cable system, including, but not limited to, services begun or dropped, subscribed gained or lost, service area increased;
   2. A summary of complaints, identifying the number and nature of complaints and their disposition;
   3. Financial statements, including a statement of income, a balance sheet, and a statement of sources and applications of funds;
   4. A complete survey of its equipment. The purpose of the report shall be to ensure the town that the technical standards of the FCC and the town are

being maintained. This plant survey shall include appropriate electronic measurements and shall be conducted in conformance with such requirements, including supervision, as the chief administrative officer may advise.

E. Requirements of Signals. The licensee shall deliver signals which are not degraded in appearance or sound from those signals which are available at the licensee's receiving site.

F. Maintenance and Complaints.
   1. The licensee shall put, keep and maintain all parts of the cable television system in good condition throughout the entire period of the license.
   2. The licensee shall render efficient service, make repair promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be proceeded by notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of the system.
   3. The licensee shall maintain a repair troubleshooting force capable of responding to subscriber complaints or requests for service within a reasonable time of the complaint or request. No charge shall be made to the subscriber for this service.
   4. The licensee shall maintain an office in the town, or vicinity, which shall be open during all usual business hours with a local telephone number listed in directories of the telephone company serving the town, or vicinity, and be so operated that complaints and requests for repairs and adjustments can be received at any time, day or night, seven days a week.
   5. The licensee shall maintain a written record, or log, listing dates of customer complaints, identifying the subscriber and describing the nature of the complaint, and when and what action was taken by the licensee in response thereto; said record shall be kept at licensee's local office and shall be available for inspection during regular business hours, without further notice or demand by the chief administrative officer.
   6. The licensee shall provide each subscriber with a statement that delineates the process for submitting a complaint and that specifies:
      a. The telephone number and the address of the licensee that the subscriber can utilize to make a complaint;
      b. A statement indicating that a dissatisfied subscriber should exhaust its remedy with the licensee before submitting a complaint to the chief administrative officer;
      c. The address of the chief administrative officer's office that the subscriber can utilize to make a written complaint.
   7. The licensee shall file in writing with the chief administrative officer, upon his or her request, a detailed description of any complaint and the manner in which it has been met, including the time required to make any necessary repairs or adjustments.
   8. Upon request by the chief administrative officer, the licensee shall make a demonstration satisfactory to the chief administrative officer that a signal is being delivered to any designated area which is of sufficient strength and

quality to meet the standards set forth in the regulations of the FCC. (Ord. 86 § 8, 1987)

5.08.090 Subscriber rates.

A. All rates and charges for services which the town is authorized to regulate shall be approved by the council before becoming effective and shall be so stated in the licensing ordinance/resolution.
B. Changes in such rates or charges shall not be approved by the council until after a public hearing which shall be published in a newspaper of general circulation at least ten days prior to the hearing.
C. If the subscriber does not receive cable television service because of a failure on the part of the licensee for more than twenty-four (24) consecutive hours, the subscribed shall receive a credit for the down-time on the subscriber's next billing. (Ord. 86 § 9, 1987)

5.08.100 License fee.

A. Any licensee shall pay to the town during the life of such license, a sum no less than three percent of the gross subscriber revenues. In the event that the town may receive a license fee based on total gross revenues from all sources, or any sources thereof, to be added to the gross subscriber revenues and become the basis for computing this fee, such basis shall automatically be utilized herein.
B. Payment due the town under this provision shall be computed quarterly for the quarter ending March 31st, June 30th, September 30th and December 31st. Each quarterly payment shall be due and payable no later than thirty (30) days after the dates listed in the previous sentence. Each payment shall be accompanied by a brief report showing the basis for the computation.
C. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the town may have for further or additional sums payable under the provisions of this section. All amounts paid shall be subject to audit and recomputation by the town. (Ord. 86 § 10, 1987)

5.08.110 Performance bond.

Any licensee shall file with the town clerk and shall thereafter, annually, during the entire term of such license, maintain in full force and effect a corporate surety bond or other adequate surety agreement in a company and in such amount as shall have been approved by the council in the licensing ordinance. The bond or agreement shall be so conditioned that in the event that licensee shall fail to comply with one or more of the provisions of this chapter, or of the license, there shall be recoverable jointly and severally from the principal and surety any damages or loss, or costs suffered or incurred by the town as a result thereof, including attorney's fees and costs of any action or proceeding, and including the full amount of any compensation, indemnification, cost or removal or abandonment of any property or other cost which may be in default, up to the full

principal amount of such bond. Said condition shall be a continuing obligation during the entire term of such license and any renewal thereof and thereafter until licensee shall have satisfied in full any and all obligations to the town which arise out of or pertain to said license. Neither the provisions of this section nor any bond accepted by the town pursuant hereto, nor any damages recovered by the town thereunder, shall be construed to excuse faithful performance by the licensee, or limit the liability of the licensee under any license issued pursuant to this chapter or for damages either to the full amount of the bond, or otherwise. (Ord. 86 § 11, 1987)

5.08.120 Liability and indemnification.

A. Hold Harmless Agreement. Any licensee hereunder shall indemnify and hold harmless the town, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of actions, actions, suits, proceedings and damages (including but not limited to damages to town property and damages arising out of copyright infringements, damages arising out of any failure by licensee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by licensee's cable television system and liable judgments for programming), costs or liabilities (including costs or liabilities of the town with respect to its employees), of every kind and nature whatsoever, including but not limited to damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the exercise or the enjoyment of any license hereunder by licensee, or the granting thereof by the town.

B. Defense of Litigation. Licensee shall at the sole risk and expense of licensee, upon demand of the town, made by and through the town attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the town, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of such license, or the granting thereof by the town.

   Licensee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against licensee, the town, its officers, boards, commissions, agents or employees in any of these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided, that neither licensee nor town shall make or enter into any compromise or settlement of any claim, demand, cause of action, action,

suit or other proceeding, without first obtaining the written consent of the other.

C. Insurance. Any licensee shall, concurrently with the filing of an acceptance of award of any license granted, furnish to the town and file with town clerk and at all times during the existence of any license granted hereunder, maintain in full force and effect, a general comprehensive liability insurance policy, in a company approved by the chief administrative officer and a form satisfactory to the town attorney, protecting the town, its officers, boards, commissions, agents and employees against liability for loss or damage for bodily injury, death and property damage resulting from the installation, development, maintenance or expansion of the cable system. The council, in the licensing ordinance, shall set the insurance amounts to be maintained by the licensee. The town shall be named on such policy as a co-insured, or added thereon by endorsement as a named insured. A certificate of the insurance required herein as well as a copy of the policy shall be filed with town clerk. The certificate shall provide that if the policy be cancelled by the insurance company or the licensee during the term of this license, ten days written notice prior to the effective date of such cancellation shall be given to the chief administrative officer. (Ord. 86 § 12, 1987)

5.08.130 Security fund.

A. Within ten days after being granted a license, any licensee shall deposit with the town, and maintain on deposit through the term of the license, a security fund, in the amount set by the council, in the licensing ordinance/resolution, as security for the faithful performance by the licensee of all the provisions of this chapter, and any license. Any and all interest earned through investment of this security fund will become a part of the security fund to be used for the purpose set forth herein. Licensee shall pay any claims, liens and taxes due the town which arise by reason of the construction, operation or maintenance of the cable system.

B. Within ten days after notice to the licensee that any amount has been withdrawn from the security fund deposited pursuant to subsection A of this section, the licensee shall restore such security fund to the original amount.

C. If the licensee fails to pay to the town any compensation within the time fixed herein; or, fails after ten days notice to pay the town any taxes due and unpaid; or, fails to repay to the town within such ten days, any damages, costs or expenses which the town shall be compelled to pay by reason of any act or default of the licensee in connection with any license; or, fails, after three days notice of such failure by the chief administrative officer, to comply with any provision of any license which the chief administrative officer reasonably determines can be remedied by an expenditure from the security fund, the town may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the chief administrative officer shall notify the licensee of the amount and date thereof.

D. The security fund deposited pursuant to this section and any interest earned on the fund shall become the property the town in the event that any license

is cancelled by reason of the default of the licensee. The licensee, however, shall be entitled to the return of such security fund and any interest earned on the fund, or portion thereof, as remains on deposit with the town ninety (90) days after the expiration of the term of any license, provided that there is then no outstanding default on the part of the licensee.

E. The rights reserved to the town with respect to the security fund are in addition to all other rights of the town, whether reserved by this chapter or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the town may have. (Ord. 86 § 13, 1987)

5.08.140 Duration of license.

The term of any license shall not exceed fifteen (15) years commencing on the effective date of any license issued and shall be so stated in the licensing ordinance/resolution. (Ord. 86 § 14, 1987)

5.08.150 Terminations.

A. Any license granted may be terminated prior to its date of expiration by the council in the event that the council shall have found that:
   1. The licensee has failed to comply with any material provision of this chapter;
   2. The licensee has, by act or omission, violated any term or condition of any license issued;
   3. The licensee has failed to comply with any material rule or regulation of the council or chief administrative officer validly adopted pursuant to this chapter;
   4. The licensee has failed to comply with any rule, regulation or order of the FCC;
   5. Upon the request of the licensee and upon the approval of the council.

B. The chief administrative officer may make written demand that the licensee do or comply with any such requirement, limitations, term, condition, rule or regulation. If the failure, neglect or refusal of the licensee continues for a period of thirty (30) days following such written demand, the chief administrative officer may place his or her request for termination of the license upon the next regular council meeting agenda. The chief administrative officer shall cause to be served upon such licensee, at least ten days prior to the date of such council meeting, a written notice of his intent to request such termination, and the time and place of the meeting, notice of which shall be published by the town clerk, at least once ten days before such meeting in a newspaper of general circulation within the town.

C. The council shall consider the request of the chief administrative officer and shall hear any persons interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the licensee was with just cause.

D. If such failure, refusal or neglect by the licensee was with just cause, the council shall direct the licensee to comply within such time and matter and upon such terms and conditions as are reasonable.
E. If the council shall determine such failure, refusal or neglect by the licensee was without just cause, then the council may, by resolution, declare that the license of such licensee shall be terminated and forfeited unless there be compliance by the licensee within such period as the council may fix. (Ord. 86 § 15, 1987)

5.08.160 Options upon expiration or termination.

A. Renewal. Upon expiration of the initial term of any license granted hereunder, any license may be renewed by the council upon application of the licensee. Each application for a renewal of any license shall be accompanied by an application fee in an amount determined by the council. The term of the renewal shall be in accordance with the existing rules of the FCC. If no rules exist, the council shall decide the term of the renewal. Renewal considerations shall include, but not be limited to, the reports prepared throughout the life of the license, the cable system's technical performance, the development of cable services, the cost of all services to the subscribers, the ability of the licensee to service the entire area of the town or service area designated by the council, and cooperation exhibited by a licensee with the town and its residents throughout the license period. Nothing herein shall be construed to require such renewal.
B. Additional Proposals. In the event that the council and the licensee are unable to reach an accord on the renewal of any license, the council may elect to invite additional proposals for the operation of one or more cable television systems. Such cable system or cable systems may either replace the existing cable system, or be an addition to the cable system operated by the then current licensee.
C. City/Town Purchase of System. In the event of expiration of the initial term, or of termination for any cause of any license, the town shall have the right of first refusal of purchase of the cable television system at a price not to exceed its then fair market value. The fair market value shall be determined in accordance with generally accepted appraisal procedures. The original cost of all tangible and intangible property, as well as salvage value, the book value, the replacement cost, cash flow and other factors may be considered. However, under no circumstances shall any valuation be made for any right or privilege granted by any license.
D. Sale of System Mandatory. In the event that the town elects to purchase the cable system, or the license is awarded to a new licensee upon expiration or termination of the term of any license, the current licensee shall sell the cable system to the town or to the new licensee, whichever is applicable. The price for such sale shall be the fair market value of the cable system, as defined above.
E. Continuity of Service Mandatory. It shall be the continuing right of all subscribers to receive all available services during the term of the license

insofar as their financial and other obligations to the licensee are honored by them. In the event of expiration of the initial terms of the license, regardless of whether it is intended that the license be renewed or not, or in the event of termination for cause of any license, the licensee shall continue all services to subscribers and shall fulfill all of the obligations required by the license and this ordinance/chapter until midnight of the day of such expiration or final termination. (Ord. 86 § 16, 1987)

5.08.170 Removal or abandonment of property.

A. The licensee shall, at its expense, protect, support, temporarily disconnect, relocate or remove any property of the licensee when required by the chief administrative officer by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, transportation facilities, tracks or any other types of structure or improvements by the public agencies. Nothing required herein shall be deemed a taking of the property of licensee, and licensee shall be entitled to no surcharge by reason of anything required herein.

B. In the event that:
   1. The use of any part of the cable system of licensee is discontinued for any reason for a continuous period of thirty (30) days, without prior written notice to and approval by the town; or
   2. Any part of such system has been installed in any street or other area without complying with the requirements hereof; or
   3. This license shall be terminated, or shall expire; then the licensee shall promptly, upon being given ten days notice by the chief administrative officer, remove from the streets or public places, at the expense of the licensee and at no expense to the town, all such property and poles of such system other than any which the council may permit to be abandoned in place. In the event of such removal, the licensee shall promptly restore the street or other area from which such property has been removed to such condition as the chief administrative officer shall approve.

C. The council may, upon written application therefore by licensee, approve the abandonment of any such property in place by licensee and under such terms and conditions as the council may prescribe. Upon abandonment of any such property of the licensee in place, the property shall become that of the town, and the licensee shall submit to the chief administrative officer an instrument in writing, to be approved by the town attorney, transferring to the town the ownership of such property.

D. Any property of the licensee remaining in place one hundred eighty (180) days after the cancellation, termination or expiration of the license shall be considered permanently abandoned. The council may extend such time not to exceed an additional thirty (30) days. (Ord. 86 § 17, 1987)

5.08.180 Rights of individuals protected.

A. Discriminatory Practices Prohibited. The licensee shall strictly adhere to the equal employment opportunity requirements of the FCC. The licensee shall comply at all times with all other applicable, federal, state and town laws and all executive and administrative orders relating to nondiscrimination.
B. Cable Monitoring Prohibited. Neither the licensee, nor any other person, shall monitor or arrange for the monitoring of any cable, line, signal input device, or subscriber outlet or receiver for the purposes of determining viewing habits, except for such generalized performance sweeps which are necessary to assure system integrity, without securing the written permission of the subscriber.
C. Permission of Property Owner or Occupant Required. No cable, line, wire, amplifier, converter, or other piece of equipment owned by the licensee shall be installed by the licensee without first securing the permission of the owner of any property involved. If such permission is later revoked, whether by the original or a subsequent owner, the licensee shall remove forthwith any of its equipment which is both visible and movable and properly restore the property to its original condition.
D. Sale of Subscriber List Prohibited. The licensee shall not sell, or otherwise make available, lists of the names and addresses of its subscribers, to any person not connected with the cable television operations of the town, without securing the written permission of the subscriber. (Ord. 86 § 18, 1987)

5.08.190 Renegotiation sessions.

A. Scheduled Renegotiation Sessions. The licensee and the town shall hold scheduled renegotiation sessions every three years from the effective date of any license. The topic of discussion may include anything but the term of the license. All such renegotiation sessions shall be open to the public and announced in a newspaper of general circulation at least ten days prior to each renegotiation session.
B. Special Renegotiation Sessions. Special renegotiation sessions may be held at any time during the term of any license, provided that both the licensee and the town shall mutually agree on the time, the place and the topics to be renegotiated. All such renegotiation sessions shall be open to the public and announced in a newspaper of general circulation at least ten days prior to each special renegotiation session. (Ord. 86 § 19, 1987)

5.08.200 Unlawful acts.

A. From and after the effective date of the ordinance codified in this chapter, it shall be unlawful for any person to establish or operate a cable television system, as defined in Section 9-505, Arizona Revised Statutes, unless a license therefore has first been obtained pursuant to the provisions of this chapter, and unless such license is in full force and effect.
B. It is unlawful for any person to make any unauthorized connection whether physically, electrically, acoustically, inductively or otherwise, with any part of a licensed cable system with the town for the purpose of enabling himself or

herself or others to receive any television signals, radio signal, picture, program or sound, without payment to the owner of the cable system.

C. It is unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cable wires, or equipment used for distribution of television signals, radio signals, pictures, programs or sounds.

D. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment. (Ord. 86 § 20, 1987)

5.08.210 Amendments to chapter.

There is reserved to the town the authority to amend any section of this chapter so as to require additional or greater standards of construction, operation, maintenance or otherwise, on the part of the licensee to reflect technical and economic changes occurring during the license term, and to enable the town and the licensee to take advantage of new developments in the cable television industry so as to more effectively, efficiently and economically serve the public. Such additional or greater standards may be imposed by the town if not prohibited by the Federal Communications Commission and only if they materially improve the quality of the service to the subscriber. (Ord. 86 § 21, 1987)

5.08.220 Compliance with rules and regulations of FCC.

Any of the provisions or terms of this chapter shall be amended by the council and made consistent with any new or amended rule or regulation of the FCC if such new or amended rule or regulation of the FCC renders such provisions or terms prohibited or inconsistent. (Ord. 86 § 22, 1987)

Chapter 5.12

RESERVED

Chapter 5.16

GAS FRANCHISES

Sections:

5.16.010 Definitions.
5.16.020 Franchise Granted.
5.16.030 Term of Franchise.
5.16.040 Use of Public Ways of the Town.
5.16.050 Manner of construction, Operation, Maintenance and Replacement.
5.16.060 Restoration of Public Ways and Other Property.
5.16.070 Relocation of Gas Service Facilities.
5.16.080 Retention of Police Powers.
5.16.090 Indemnification and Hold Harmless; Insurance.
5.16.100 Franchise Fee.
5.16.110 Regulations, Rates, Tariffs and Charges.
5.16.120 Assignment.
5.16.130 Property of the Grantee.
5.16.140 Piped Gas Requirement.
5.16.150 Substantial Performance and Termination.

5.16.010 Definitions

Whenever in this instrument the words and phrases hereinafter defined in this section are used, they shall have the respective meanings assigned to them in the following definitions.

A. **"Construct"** shall mean to lay, construct, build, erect, install, excavate, bore under and test.
B. **"Franchise"** shall mean the non-exclusive rights and privileges, duties and obligations et forth in this ordinance.
C. **"Gas"** shall mean gaseous fuels of all types, including natural gas, artificial gas, liquefied natural gas, manufactured gas or any mixture thereof used for hearing, cooking lighting, cooling, power generation or other useful purposed.
D. **"Gas Service Facilities"** shall include, but not be limited to, gas plant infrastructure, pipes, pipelines, mains, services, traps, vaults, manholes, meters, gauges, regulators, valves, conduits, appliances, attachments, appurtenances, and without limitation to the foregoing, any other property located, or to be located, in, upon, along, across, under, or over the Public Ways (as hereinafter defined) within the Town, and used or useful in conveying and/or distributing Gas.
E. **"Grantee"** shall mean Citizens Utilities Company, a Delaware Corporation, and its lawful successors or assigns.
F. **"Operate, maintain and replace"** shall mean to operate, maintain, use, repair, replace, or remove.
G. **"Public Ways"** shall mean the surface of, and the space above and below, any public street, avenue, boulevard, highway, freeway, parkway, and other

thoroughfares, bridge, land, path, alley, court, sidewalk, way, lane, public utility easement, dedicated utility strip, or right-of-way dedicated for compatible uses. "Pubic Ways" also means any easement now or hereafter held by the Town of purposes of public travel, or for utility or public service use, or dedicated for compatible uses. "Public Ways" shall include other easements or rights-of-way as may be necessary for the construction subsequent operation, maintenance and replacement of Gas Service Facilities.

H. **"Town"** or **"Springerville"** shall mean the Town of Springerville, Arizona, an Arizona municipal corporation.

5.16.020 Franchise Granted

Subject to the terms and conditions of this Franchise, Springerville hereby grants to Grantee a Franchise for its Gas Service Facilities as may be constructed in the Public Ways of the Town, which Grantee may from time to time elect to use for the purpose of conveying and distributing Gas to the public.

5.16.030 Term of Franchise

The term of this Franchise begins on the date this Franchise Ordinance is signed and approved by both the town and the Grantee, and shall remain in full force and effect for a period of twenty-five (25) years after that date, unless sooner terminated pursuant to the terms of this Franchise.

5.16.040 Use of Public Ways of the Town

Subject to the terms and conditions of this Franchise, Grantee shall have the right to construct, operate, maintain and replace Gas Service Facilities within the Public Ways of the Town from time to Time, and as may be necessary and proper to convey and distribute Gas to the public.

5.16.050 Manner of construction, Operation, Maintenance and Replacement

A. All Gas Service Facilities constructed pursuant to the provisions of this Franchise shall be constructed in a good and workmanlike manner, and in compliance with all valid federal laws, laws of the State of Arizona, and the orders, rules and regulations of the Arizona Corporation Commission. All such Gas Service Facilities shall be constructed, operated, maintained and replaced so as not to interfere with the safety of persons and property, and so as to minimize the inconvenience and interference with traffic and other public uses.

B. Prior to the construction of Gas Service Facilities, or any extension or relocation thereof, Grantee shall apply to the Public works Director for a license or permit ("Permit") to construct the Gas Service Facilities within a Public Way, or other public property owned by the Town. The application for a Permit shall include copies of draft plans an specifications for the Gas Service Facilities to be constructed under the Permit. The Town may charge the Grantee a "Plan Review Fee" for the issuance of the Permit, provided

however, that in any calendar year, the aggregate sum of all such Plan Review Fees charged by the Town to the Grantee shall not exceed One Thousand Dollars ($1,000.00). The Town shall use good faith efforts to issue any such Permit within ten (10) business days' followings the date on which the Town receives Grantee's request or application for a Permit. Any such Permit may include reasonable provisions drafted to minimize inconvenience and interference with traffic and other public uses and to ensure the heal, safety and welfare of the public.

C. Notwithstanding the provision of subsection (b) of this Section, Grantee is granted the right to undertake such emergency activities as are necessary to provide and maintain the reliability and safety of its Gas Service Facilities. If such emergency action is required, Grantee shall, within two (2) business days of the emergency action, advise the Town's Public Works Director of the work performed pursuant to this subsection.

D. During construction of the Gas Service Facilities, and at least once each year thereafter, Grantee shall provide to Town at no cost, good and workmanlike "as-built" plans and "as-build" plans in a computerized format reasonably acceptable to the Town of the Grantee's Gas Service Facilities, or any additions, extensions or relocations thereof, constructed during the preceding calendar year. Grantee also shall timely comply with all requirements ("blue stake requirements") imposed on it under A.R.S. §§ 40-360.21 et seq., for the location and protection of underground facilities.

5.16.060 Restoration of Public Ways and Other Property

A. Following the completion of construction of the Gas Service Facilities, or during the subsequent operation, maintenance and replacement thereof, Grantee, at its own cost and expense, shall promptly repair or restore the areas or portions of such Public Ways that have been damaged by Grantee's actions or activities. Repairs or restorations shall be accomplished to ensure that damaged areas or portions of the Public Way are repaired or restored to as good a condition as that which existed immediately before the initiation of construction, maintenance or replacement of the Gas Service Facilities.

B. If any area or portion of a Public Way is damaged by reason of defects in any of the Gas Service Facilities constructed, operated, maintained or replaced under this Franchise, Grantee shall, at its own cost and expense, immediately repair such damage and restore such Public Ways, or portion thereof, to a condition equivalent to that which existed before such damage occurred.

C. To the extent possible to do so and unless superseded by the terms or conditions of an easement, line extension or gas service agreement between the Grantee and persons or entities who are not parties to this Franchise ("Third Persons"), Grantee shall restore any private property of such Third Persons damaged through construction, maintenance or replacement of Gas Service Facilities to as good a condition as that which existed immediately before such damage occurred, provided however, that the Grantee shall not be under any such obligation if the damage to the Third Person's property

was attributable to the Third Person's negligent, willful, reckless or intentional conduct.

D. Any repair or replacement work accomplished under the provisions of this Franchise shall be done under the direction of the Public Works Director, in accordance with the terms and conditions of this Franchise and the reasonable and customary standards for gas utilities operating in Arizona.

5.16.070 Relocation of Gas Service Facilities

A. Grantee shall relocate any Gas Service Facilities constructed under this Franchise and shall bear the entire cost of relocation if and when such relocation is made necessary by any lawful change of grade, alignment, or width of any Public Way by the Town. The Town, however, shall reimburse Grantee for such expense to the extent monies are available and received by the Town under the provisions of any state, federal or any other funding for the relocation of Gas Service Facilities for that Construction project. If Town requires Grantee to relocate any Gas Service Facilities for any other reason, the Town will consider Grantee requests for sharing the costs of relocation of the Gas Service Facilities. The Town will negotiate such sharing of costs in good faith; however, the amount and extent of such cost shall be in the reasonable discretion of the Town.

B. The Grantee shall be given an opportunity to review and comment upon any proposed change of grade, alignment, or width of any Public Way by the town which necessitates the relocation of the Grantee's Gas Service Facilities. Grantee shall review and provide its comments within ten (ten) days following its receipt of plans or specifications prepared by the Town for such changes of grade, alignment, or width.

C. In the event that the Grantee relocates any of its Gas Service Facilities at the request of the town, and within eighteen (18) months after Grantee's completion of the relocation, the Town then fails to commence the improvement or relocation upon which the Town's request for relocation of Gas Service Facilities was based, the Town shall reimburse the Grantee for the entire and actual cost of such relocation within ninety (90) calendar days after receiving from Grantee an itemized billing for such relocating, together with supporting invoices for materials and labor.

5.16.080 Retention of Police Powers

Pursuant to its police power, the Town may at nay time hereafter, impose pursuant to law such additional restrictions and limitations regarding the use or occupation by grantee of the Public Ways as the Town deems reasonably necessary to protect the health, public safety, and welfare of the citizens of the Town, provided however, that any such restriction or limitation shall not defeat the rights of the Grantee hereunder.

5.16.090 Indemnification and Hold Harmless; Insurance

A. With respect to claims or demands for damages, injuries or compensation brought against the Town or the Grantee by persons or entities who are not

parties to this Franchise, each party to the Franchise agrees to indemnify and hold the other party harmless from any and all costs, charges, assessments, obligations. Liabilities, damages or judgments attributable to any dispute, lawsuit, or proceeding arising out of the terms and conditions of this Franchise where such costs, charges, assessments, obligations, liabilities, damages or judgments arise out of the indemnifying party's negligent, willful, reckless or intentional conduct.

B. During the term of the Franchise, Grantee shall maintain the following insurance coverage's:
   1. Comprehensive General Liability Insurance with a minimum limit of liability of $10,000,000 combined single limit for each occurrence for bodily injury including death and property damage; and
   2. Comprehensive Automobile Liability Insurance with a minimum limit of liability of $10,000,000 combined single limit for each occurrence for bodily injury, including death and property damage; and
   3. Workmen's Compensation Insurance in the benefit amounts, and occupational disease or disability insurance, as required by the laws and regulations of the State of Arizona.

5.16.100 Franchise Fee

A. For and in consideration of the granting of this Franchise and as rental for the occupation and use over, upon and beneath the Public Ways and other public property of the Town, Grantee shall pay to the Town, commencing with the first full billing period after the effective date of this Franchise and continuing each year during all the time this provision shall remain in force and of this Franchise and continuing each year during all the time this provision shall remain in force and effect, a franchise fee ("Franchise Fee) equal to the total aggregate sum of two percent (2%) of the gross receipts of the Grantee during such year, for Gas sold within the corporate limits of the Town, subject to the limitation hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of Gas sold and consumed within the corporate limits f the Town under the Grantee's rates in existence at the time. Notwithstanding the provisions of this Section, should the Grantee enter into any gas franchise with any political subdivision of this State which provides for higher percentage of Grantee gross receipts payment than two percent (2%), the Town Council, at its sole option, shall have the right to increase the Grantee's Franchise Fee to a rate not to exceed the higher percentage rate. The Grantee shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. During the term of this Franchise, said Franchise Fee payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise r revenue taxes or any other exactions upon the business, revenue, property, Gas Service Facilities or other appurtenances of the Grantee, or any part thereof, in said

Town, (except general ad valorem property taxes, special assessments for local improvements, impact and development fees, municipal privilege, sales or use taxes authorized by law and collected by the Grantee from users and consumers of Gas within the corporate limits of the Town, and any other charges, taxes or fees levied upon businesses generally through the Town). In the event the Town does levy a charge or attempt to collect charges, taxes or fees in violation of the foregoing, the obligation to make the payments hereinabove provided for shall cease, pending a final determination by a court of competent jurisdiction of the legitimacy of the same.

B. The Town may at any reasonable time request to examine the books and records of Grantee for the purposed of verifying Grantee's Gross Revenues calculations upon which the Franchise Fee is based. Any such request shall be in writing and shall specify with particularity the nature of the documents or records to be examined or inspected. Grantee shall furnish true, accurate and complete copies of such records t Town, and further shall use good faith efforts to acquire such records within thirty (30) days following the Grantee's receipt f the Town's request.

5.16.110 Regulations, Rates, Tariffs and Charges

The rates, tariffs and charges to be charged by the Grantee for furnishing Gas service hereunder, and the rules and regulations to be made or enforced by the Grantee for the conduct of its business shall be those on file and effective with the Corporation of the State of Arizona, which may be amended or revised from time to time.

5.16.120 Assignment

Grantee shall have the right to assign or otherwise convey this Franchise as part of a sale of its assets, its Gas Service Facilities or its retail Gas business to a third party purchaser. In the event of an assignment of this Franchise, Grantee shall obtain the town's prior written consent, which consent shall not be unreasonably withheld. In the event that the Town does not provide its written consent or objection within forty-five (45) days of Town's receipt of written notice of Grantee's intent to assign, then the Town shall be deemed to have approved of the same. In the event that the Town objects to any conveyance or assignment of this Franchise to a third party purchaser, then to the extent that it has jurisdiction to do so, any such objection shall be heard by the Arizona Corporation Commission as part of a request by the Grantee for approval of its conveyance of its Gas Service Facilities to the third party purchaser. This Section shall not apply to the transfer or assignment of this Franchise to a parent company or affiliated company of the Grantee, or to a wholly-owned subsidiary of Grantee.

5.16.130 Property of the Grantee

All Gas Service Facilities, and all other property installed by the Grantee in accordance with the terms of this Franchise shall be and remain the property of the Grantee, and upon expiration of this Franchise, or any extension or renewal

thereof, the Grantee is hereby granted the right to enter upon the Public Ways, and other public structures, places and grounds of the Town for the purpose of removing any and all Gas Service Facilities and other property f the Grantee, at any time within six (6) months after termination of this Franchise or any such extension or renewal thereof. Following completion of the removal of the Gas Service Facilities, or any part thereof, Grantee, at its own cost and expense, shall promptly repair or restore the areas of such Public Ways or portions thereof, that have been damaged through such removal. Any such repairs or restorations shall be accomplished in accordance with the provisions of Section 6 of this Franchise.

5.16.140 Piped Gas Requirement

The parties hereto understand that at least initially, the Gas delivered to residents of the Town will be liquefied natural gas ("LNG"), rather than natural Gas ("Pipeline-Supplied Gas") delivered to the Town from an interstate gas pipeline. Once every five (5) years, Grantee shall conduct a feasibility study as to the feasibility of bringing in Pipeline-supplied Gas is available t the Grantee or the Town of Springerville. If at any time, Pipeline-supplied Gas is available to the Grantee or the Town of Springerville and can be obtained at a cheaper rant than LNG (inclusive of amortized conversion and capital costs of interests and related facilities to connect the Gas Service Facilities constructed hereunder to a interstate pipeline), Grantee is required to purchase the Pipeline-Supplied natural Gas. In addition, if Pipeline-Supplied Gas is provided to the neighboring Town of Eagar by Grantee or others, then Grantee shall supply pipeline-supplied Gas to Springerville.

5.16.150 Substantial Performance and Termination

A. If Grantee, after a two (2) year period from the date of the granting of this Franchise, fails to show substantial performance in delivering Gas to the residents of the Town of Springerville pursuant to this Franchise, the Town, by its Common Council, may declare this Franchise forfeited. Prior to any such declaration by the Common Council, Grantee shall be provided with written notice of the Common Council's intention to declare this Franchise forfeited, and shall be given an opportunity t be heard.
B. The Town may sue in its own name for the forfeiture of this Franchise, or for any breach thereof, in the event of non-compliance by Grantee, its successors or assigns, with any of the conditions hereof.
C. Notwithstanding the foregoing, Grantee shall be excused from substantial performance hereunder if Grantee's inability to provide Gas service is attributable to circumstances beyond the control of the Grantee, specifically including, but not limited to, regulatory delays attributable to safety or public health concerns raised by the Arizona Corporation Commission about the transportation, conveyance, delivery or use of LNG (as previously defined).

Chapter 5.20

PEDDLERS, SOLICITORS, CARNIVALS AND CIRCUSES

Sections:

5.20.010 Registration required.
5.20.020 Application to police chief.
5.20.030 Issuance of registration cards.
5.20.040 Revocation of registration cards.
5.20.050 Peddling without registration cards prohibited.
5.20.060 Permission required for selling on streets or sidewalks.
5.20.070 Signs to be observed.
5.20.080 Newsboys exempt.
5.20.090 Fees.

5.20.010 Registration required.

Any person operating as a solicitor, peddler, hawker, salesperson or vendor of goods, wares, merchandise, newspapers, magazines or services, who goes from house to house, or to only one house, in the town, shall register with the police department and obtain an identification card showing such registration. (Prior code § 9-1-1)

5.20.020 Application to police chief.

Applicants for police registration under the terms of Section 5.12.010 shall be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicant's registration card and the other to be retained by the police department. The chief of police shall require the applicant to file his or her fingerprint identification with the police department.

Such applicants for police registration shall be required to furnish to the police department a complete description of the product to be sold in the town, together with information regarding sales methods to be used and references that will enable the chief of police to determine whether or not such applicant is qualified to receive a registration card as provided in Section 5.12.030. Investigation by the chief of police under the provisions of this chapter shall be completed within fifteen (15) days after the applicant has given the required information. (Prior code § 9-1-2)

5.20.030 Issuance of registration cards.

Registration cards under this chapter shall be given without charge to all applicants who have complied with Section 5.12.020, unless the chief of police discovers that any such applicant is deemed not to be a proper person to be permitted to go from house to house because of any of the following reasons: (1) he or she has a criminal record; (2) he or she is associated with a company that has engaged in fraudulent dealings; or (3) the proposed sales proposition includes some element of trickery, fraud or deceit, in which case, in the interest

of public safety and protection, the applicant shall not be registered. (Prior code § 9-1-3)

5.20.040 Revocation of registration cards.
Registration cards under this chapter may be revoked by the chief of police if at any time he or she deems such action necessary in the interest of public safety and protection. (Prior code § 9-1-4)

5.20.050 Peddling without registration cards prohibited.
It is unlawful for any person to take part in the act of soliciting, peddling, hawking, selling or vending of goods, wares, merchandise, newspapers, magazines or services from house to house, or to only one house, in the town without having registered with the police department and without having obtained a registration card; without having such card in possession; or failing to exhibit such card when request is made for the registration card by any resident of the town. (Prior code § 9-1-5)

5.20.060 Permission required for selling on streets or sidewalks.
It is unlawful for any person to erect or maintain any booth, stand or counter on any sidewalk in the town for the purpose of barter, sale or trade, or keep or maintain upon the streets or alleys any wagon, cart, wheel, vehicle, movable booth or stand for the purpose of barter or trade without obtaining permission of the council. (Prior code § 9-1-6)

5.20.070 Signs to be observed.
It is unlawful for any peddler, solicitor or canvasser in the course of his business to ring the doorbell or knock at any building whereon a sign bearing the words "no peddlers, solicitors, or canvassers" is exposed to public view. (Prior code § 9-1-7)

5.20.080 Newsboys exempt.
Newsboys are exempt from the provisions of this chapter for the sale of newspaper subscriptions. (Prior code § 9-1-8)

5.20.090 Fees.
A. Every transient menagerie, circus, carnival or show shall pay a license tax of one hundred dollars ($100.00) per day.
B. Every traveling merchant, peddler and itinerant vendor shall pay a license tax of one hundred dollars ($100.00) per day. (Ord. 77 § D, 1986: prior code § 9-1-9)

6. ANIMALS

Title 6

ANIMALS

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Chapter 6.04

ADMINISTRATION AND ENFORCEMENT

Sections:

6.04.010 Animal control officer designated.
6.04.020 Authority of enforcement agent.
6.04.030 Unlawful interference with enforcement agent.
6.04.040 Violation—Penalty.

6.04.010 Animal control officer designated.

The animal control officer of the town, shall be the chief of police or such other employee of the town police department as may be appointed from time to time by the town council. (Ord. 100 § 1, 1991)

6.04.020 Authority of enforcement agent.

A. The enforcement agent or a civilian, independent contractor as designated by the town from time to time, shall have the right to enter upon private property when it becomes necessary to do so in order to apprehend or otherwise take control of any dog that has been running at large. Such entry upon private property shall be in pursuit of such dog, shall be reasonable, and shall not include entry into any residence or through any barrier fence or walled area unless with the permission of the owner or occupant. Areas enclosed with any fencing which allows easy animal or human entry and exit, either through, over or under such fencing, such as but not limited to a split rail fence, will not be considered a fenced area for the purposes of enforcing this section.

B. The enforcement agent or a civilian independent contractor as designated by the town from time to time, may issue a civil citation to the dog owner or other person acting for the owner when the dog is at large, or when such dog violates any provision of this chapter. The procedure for issuance of notice to appear and civil citation or complaint shall be as provided for in Arizona Revised Statutes Section 28-1071, et seq. The Arizona Traffic Ticket and Complaint may be utilized to satisfy the requirements of this section.

C. In the judgment of the enforcement agent or a civilian independent contractor as designated by the town from time to time, if any dog at large, or any other animal at large, is dangerous, vicious or fierce and presents a threat to human safety, but cannot be safely impounded, the dog or animal may be immediately slain by a police officer only in the most humane manner possible at the time. The requirements of this section shall not affect the responsibility of the animal control officer or a civilian independent contractor as designated by the town from time to time from humane euthanasia or other impounded animals. (Ord. 100 § 3, 1991)

6.04.030 Unlawful interference with enforcement agent.

It is unlawful for any person to interfere with the enforcement agent or a civilian independent contractor as designated by the town from time to time, in the

performance of his or her duties pursuant to the provisions of this chapter. It shall also be unlawful for any person to release, remove, tamper with, damage or in any way interfere with any dog, cat or other animal or any other property in the custody of the enforcement agent or a civilian independent contractor as designated by the town from time to time, or when such dog or other animal or property is in the town's animal control vehicle, town animal shelter, or other cage, trap or impoundment at the direction of the enforcement agent or a civilian independent contractor as designated by the town from time to time. (Ord. 100 § 4, 1991)

6.04.040 Violation—Penalty.

A. Any violation of this chapter by an owner or other person shall be treated as civil matters.

B. Any owner or other person who is found to have violated any section of this chapter shall have judgment entered against him and for the state and a civil sanction of not less than twenty-five dollars ($25.00) nor more than two hundred fifty dollars ($250.00) shall be imposed along with judgment for any impoundment fees. (Ord. 100 § 5, 1991)

Chapter 6.08

ANIMAL CONTROL REGULATIONS

Sections:

6.08.010 Dangerous animals.
6.08.020 Killing dangerous animals.
6.08.030 Noises.
6.08.040 Strays.
6.08.050 Housing.
6.08.060 Swine.
6.08.070 Diseased animals.

6.08.010 Dangerous animals.

A. It is unlawful to permit any dangerous, vicious animal of any kind to run at large within the town and such animals shall be immediately impounded by the police chief.
B. Exhibitions or parades of animals which are ferae naturae in the eyes of the law may be conducted only upon securing a permit from the chief of police. (Prior code § 7-1-1)

6.08.020 Killing dangerous animals.

The members of the police department are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property. (Prior code § 7-1-2)

6.08.030 Noises.

It is unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of the day or night. (Prior code § 7-1-3)

6.08.040 Strays.

Any person who keeps or causes to be kept any horses, mules, cattle, burros, goats, sheep or other livestock or poultry within the corporate limits of the town shall keep such livestock or poultry in a pen or similar enclosure to prevent their roaming at large. (Prior code § 7-1-4)

6.08.050 Housing.

It is unlawful to cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome. (Prior code § 7-1-5)

6.08.060 Swine.

It is unlawful to keep any live swine or pigs in the town. (Prior code § 7-1-6)

6.08.070 Diseased animals.

It is unlawful to allow any domestic animal afflicted with a contagious or infectious disease to run at large, or 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 a member of the police department. (Prior code § 7-1-7)

Chapter 6.12

DOGS

Sections:

6.12.010 Definitions.
6.12.020 Licenses and tags generally.
6.12.030 Vaccination required.
6.12.040 Running at large.
6.12.050 Impoundment.
6.12.060 Biting dogs.

6.12.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"At large" means off the premises of the owner not under the control of the owner, or other persons acting for the owner.

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

"Dog" means a member of the canis familiaris family.

"Owner" means any person, owning, keeping, possessing, harboring or maintaining a dog.

"Pound" means any establishment authorized by the town for the confinement, maintenance, safekeeping and control of dogs that come into the custody of the police department.

"Vaccination" means an anti-rabies vaccination using a type of vaccine approved by the state veterinarian. (Prior code § 7-3-1)

6.12.020 Licenses and tags generally.

A. A license fee shall be paid for each dog four months of age or over that is kept, harbored or maintained within the boundaries of the town for at least sixty (60) days of each calendar year. The annual fee shall be fifty cents ($0.50) per year for each male dog or spayed female dog, and three dollars ($3.00) per year for each unspayed female dog.

B. The license fee shall be due on January 1st of each year, and the license fee shall be paid within ninety (90) days to the town. A penalty of two dollars ($2.00) shall be added to the license fee in the event that application is made subsequent to the date on which the dog is required to be licensed under provisions of this chapter. This penalty shall not be assessed against applicants who furnish adequate proof that the dog to be licensed has been in their possession in the town less than sixty (60) days.

C. A guide dog belonging to a blind person who is a resident of the state or any bona fide nonprofit organization which is in the business of breeding, raising or training dogs that are to be used for guiding the blind shall, upon application by the owner or organization to the town and on presentation of

proper proof, be vaccinated and licensed pursuant to this chapter without payment of a fee.

D. Each dog licensed under the terms of this chapter shall receive, at the time of licensing, a tag on which shall be inscribed the name of the town, the number of the license and the year in which it expires. The tag shall be attached to a collar or harness which shall be worn by the dog at all times except as otherwise provided in this chapter. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a one dollar ($1.00) fee to the town police chief.

E. Any person who counterfeits or attempts to counterfeit an official dog tag or removes such tag from any dog for the purpose of willful and malicious mischief or places a dog tag upon a dog unless the tag was issued to that dog is guilty of a misdemeanor.

F. Whenever the ownership of a dog has been changed, the new owner must secure a transfer of license to such owner. A transfer fee of one dollar ($1.00) shall be charged to transfer any license.

G. Dogs while being used for hunting or dogs while being exhibited at American Kennel Club approved shows or dogs while engaged in races approved by the Arizona Racing Commission and such dogs while being transported to and from such events need not wear a collar or harness with a valid license attached; provided, that they are properly vaccinated and licensed.

H. The police department shall apprehend and impound any dog found without a current valid license tag. (Prior code § 7-3-2)

6.12.030 Vaccination required.

A. Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination and type, manufacturer and serial number of the vaccine and date revaccination is due. A duplicate of each rabies vaccination certificate issued shall be transmitted to the police department on or before the tenth day of the month following the month during which the dog was vaccinated. No dog shall be licensed unless it is vaccinated in accordance with the provisions of this chapter and the regulations promulgated hereunder.

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

C. The police department shall make provisions for low-cost vaccination clinics as deemed necessary. The vaccination shall be performed by a veterinarian.

D. If a dog is impounded and found to be unvaccinated, the police department is authorized to cause such dog to be vaccinated at the pound at a cost to be

borne by the owner. The vaccination shall be performed by a veterinarian, who shall issue a certificate of vaccination. (Prior code § 7-3-3)

6.12.040 Running at large.

A. No person owning, keeping, possessing, harboring or maintaining a dog shall allow such dog to be at large. A dog is not deemed to be at large:
   1. If such dog is restrained by a leash, chain, rope or cord of not more than six feet in length and of sufficient strength to control the action of such dog;
   2. While such dog is actively engaged in dog obedience training, accompanied by and under the control of his owner or trainer; provided, that the person training such dog has in his possession a dog leash of not more than six feet in length and of sufficient strength to control such dog; and, further, that such dog is actually enrolled in or has graduated from a dog obedience training school which has been approved by the town police department;
   3. While such dog is being used for hunting purposes;
   4. While such dog is being exhibited at an American Kennel Club approved show;
   5. While such dog is engaged in races approved by the Arizona Racing Commission.

B. Any female dog in heat not securely confined in the owner's yard, pen or other enclosure shall be deemed to be at large.

C. A member of the police department shall apprehend and impound any dog running at large contrary to the provisions of this chapter. (Prior code § 7-3-4)

6.12.050 Impoundment.

A. The police department shall apprehend and impound any dog found without a current valid license tag.

B. Each unlicensed dog impounded shall be kept and maintained at the pound for a minimum of three days. At the expiration of the impoundment period, anyone may claim the dog; provided, that such person pays all established pound fees and complies with the licensing provisions of this chapter within seventy-two (72) hours. If no person claims the dog, the police department may dispose of the dog in a humane manner.

C. Impoundment costs shall include an assessment of ten dollars ($10.00) each time a dog is impounded and five dollars ($5.00) for each day the police department cares for and feeds the dog. (Ord. 77 § B (part), 1986; prior code § 7-3-5)

6.12.060 Biting dogs.

A. Whenever a dog bites any person the incident shall be reported to the town police department immediately by any person having direct knowledge.

B. Any dog that bites any person shall be quarantined and impounded or, at the request of and at the expense of the owner, placed in a veterinary hospital for a period of not less than seven days. The owner of any dog that has bitten a

person may voluntarily deliver the dog to the police department at the pound; otherwise, there shall be a two dollar ($2.00) assessment against the owner if the police department must pick up the dog. If the dog is impounded in the pound for observation as a result of a dog bite incident, there shall be a one dollar and fifty cents ($1.50) per day charge for board, and no other impoundment fees shall be charged under these circumstances.

C. If it is determined that the dog is infected with rabies or other dangerous, contagious and infectious disease, it shall be the duty of the police department to destroy such dog in as humane a manner as is reasonably possible. If at the end of the quarantine or impoundment, a veterinarian is convinced that the dog is free from such diseases, the dog shall be released. If the dog dies during the period of quarantine or impoundment, its head shall be sent to the state Department of Health for examination. (Prior code § 7-3-6)

Chapter 6.16

IMPOUNDMENT

Sections:

6.16.010 Duty of police department.
6.16.020 Impounding of animals at large.
6.16.030 Notice to owners of impoundment.
6.16.040 Report of impounded animals.
6.16.050 Conditions and duration of impoundment.
6.16.060 Redemption of impounded animals.
6.16.070 Sale of unredeemed animals.
6.16.080 Impounding fees.
6.16.090 Biting animals.

6.16.010 Duty of police department.

The police chief and members of the police department shall be charged with the enforcement of the provisions of this chapter, except as may be otherwise provided by the council. (Prior code § 7-2-1)

6.16.020 Impounding of animals at large.

It shall be the duty of the police department to impound all animals found at large, or not in charge of or under the care or control of some person in the streets, alleys or other public places or vacant or unenclosed lots in the town, except dogs upon which the license fee has been paid and wearing metal tags as provided in this chapter. (Prior code § 7-2-2)

6.16.030 Notice to owners of impoundment.

If the owner of any impounded animal, except dogs, shall be known to the police department and shall reside or have a known place of business in the town, a member of the police department shall notify the owner of such animal personally or by letter through the post office within twenty-four (24) hours after such animal has been taken up and impounded. The notice shall contain a description of the animal and shall state that unless reclaimed, such animal shall be sold at public auction to the highest bidder at the time and place specified in the notice. Copies of the notice shall be posted at the place of impoundment and at the town hall. (Prior code § 7-2-3)

6.16.040 Report of impounded animals.

The police department shall, within twenty-four (24) hours after taking up and impounding any animal, except a dog, make a report to the clerk stating the kind of animal and describing it by color or otherwise or by any marks or brands that may be on it, and when it was taken up and impounded. (Prior code § 7-2-4)

6.16.050 Conditions and duration of impoundment.

The police department shall provide for the keeping of all animals taken up and impounded by the department in a safe, convenient and comfortable place within or conveniently near the town limits and shall feed such animals at least once every twenty-four (24) hours and treat them in a humane manner during the time they are impounded, which shall not be less than five days, unless sooner claimed by the owner, except dogs which shall be kept as provided in this chapter. (Prior code § 7-2-5)

6.16.060 Redemption of impounded animals.
If the owner of any animal other than a dog shall within five days after such animal has been taken up and impounded, apply to the police department and pay the fees and charges provided by this chapter, the police department shall deliver any such animal to the owner. (Prior code § 7-2-6)

6.16.070 Sale of unredeemed animals.
All animals, other than dogs, taken up and impounded under the provisions of this chapter which have not been claimed and the fees and charges have not been paid to the town by the owner within five days, shall at the time provided in the notice of sale, be sold by the police department at public auction at the place of impoundment, to the highest cash bidder. The police department shall immediately pay to the clerk the proceeds of the sale of any such animal, which proceeds, after deducting therefrom the fees and charges, shall be paid to the owner of the animal if he appears and claims the same within thirty (30) days after the sale, and if not, then the proceeds shall be paid into the general fund of the town. The police department shall execute a bill of sale in favor of the purchaser of such animal and upon payment of the amount bid shall deliver the bill of sale to the purchaser. (Prior code § 7-2-7)

6.16.080 Impounding fees.
The town shall collect from the owner of animals taken up and impounded and duly claimed by the owner, before delivering any such animals, the sum of ten dollars ($10.00) for every animal so taken up, and in addition thereto for the taking care of, watering and feeding any impounded animal five dollars ($5.00) per day. All fees collected shall be paid into the general fund of the town. (Ord. 77 § B(part), 1986; prior code § 7-2-8)

6.16.090 Biting animals.
Whenever any animal, except a dog, bites a person, the person so bitten and the owner of the animal shall immediately notify the police department, which shall cause an examination of the animal to be made by a duly licensed physician or a duly licensed veterinarian, and shall order the animal held on the owner's premises or shall have it impounded as long as necessary for a complete examination. If it is determined that the animal is infected with rabies or other dangerous, contagious and infectious disease, it shall be the duty of the police department to destroy such animal in as humane a manner as is reasonably possible. If at the end of the quarantine or impoundment, a veterinarian is

convinced that the animal is free from such diseases, the animal shall be released. If the animal dies during the period of quarantine or impoundment, its head shall be sent to the state department of health for examination. (Prior code § 7-2-10)

7. RESERVED

Title 7

(RESERVED)

Chapter	Title	Page

8. HEALTH AND SAFETY

Title 8

HEALTH AND SAFETY

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Chapter 8.04

GARBAGE, REFUSE AND TRASH

Sections:

8.04.010 Definitions.
8.04.020 Accumulation of refuse.
8.04.030 Hauling refuse.
8.04.040 Vehicles and receptacles to be spillproof.
8.04.050 Spilled refuse.
8.04.060 Dumping refuse.

8.04.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Garbage" means all putrescible wastes, except sewage and body wastes, including all organic wastes that have been prepared for, or intended to be used as, food or have resulted from the preparation of food, including all such substances from all public and private establishments and residences.

"Refuse" means all garbage and trash.

"Trash" means all nonputrescible wastes. (Prior code § 10-1-1)

8.04.020 Accumulation of refuse.

It is unlawful for the person in possession or control of any residential or business property within the corporate limits of the town to permit refuse to accumulate on the premises for a period of more than seven days at any one time. Any person in possession or control of such premises shall cause such refuse to be disposed of in the town dump at least once within each calendar week. (Prior code § 10-1-2)

8.04.030 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 of the provisions in this chapter. (Prior code § 10-1-3)

8.04.040 Vehicles and receptacles to be spillproof.

It is unlawful for any person to haul or cause to be hauled on or along any public street in the town any garbage, unless such garbage is contained in strong watertight vehicles or vehicles with watertight receptacles, constructed to prevent any such garbage from falling, leaking or spilling and any odor from escaping. (Prior code § 10-1-4)

8.04.050 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. (Prior code § 10-1-5)

8.04.060 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. (Prior code § 10-1-6)

Chapter 8.08

LITTER

Sections:

8.08.010 Definitions.
8.08.020 Litter on private property.
8.08.030 Owner to maintain premises.
8.08.040 Procedure to compel removal of litter.
8.08.050 Notice to remove.
8.08.060 Service of notice.
8.08.070 Appeal to council.
8.08.080 Removal by town.
8.08.090 Lien for removal.
8.08.100 Placement of debris.

8.08.010 Definitions.

"Litter" means any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety and shall include all putrescible and nonputrescible solid wastes including garbage, trash, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial waste; any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever; and any growth of noxious or toxic weeds or uncultivated plants, whether growing or otherwise; weeds; tall grass; uncultivated shrubs or growth higher than twenty-four (24) inches.

"Private premises" means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.

"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. (Prior code § 10-2-1)

8.08.020 Litter on private property.

No person shall throw or deposit litter on any occupied or unoccupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place. (Prior code § 10-2-2)

8.08.030 Owner to maintain premises.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit

the storage of litter in authorized private receptacles for collection. (Prior code § 10-2-3)

8.08.040 Procedure to compel removal of litter.
The clerk shall enforce the provisions of Sections 8.08.020 and 8.08.070 by prosecuting violators of said sections in the Springerville Magistrate's Court pursuant to the criminal provisions of this code. If such prosecution fails to secure compliance with the provisions of said sections, or in the event of inability to prosecute violators by reason of failure to secure jurisdiction over their persons, the clerk shall compel the removal of litter by the procedure outlined in Sections 8.08.020 through 8.08.070. (Prior code § 10-2-4)

8.08.050 Notice to remove.
To compel the removal of litter through the provisions of this section and of Sections 8.08.060 through 8.08.090, if a person owning or controlling any property fails, neglects or refuses to remove or properly dispose of litter located on property owned or controlled by such person, he or she shall be given written notice by the clerk to remove all litter from such property within thirty (30) days from the date the notice was received by him or her, and prior to the date of compliance on the notice. Such notice shall be received not less than thirty (30) days before the date set thereon for compliance, and shall contain an estimate of the cost of removal by the town a statement that unless the person owning or controlling such property complies therewith within thirty (30) days from the date such written notice is received that the town will, at the expense of the person owning or controlling the property, perform the necessary work at a cost not to exceed the estimate given in the notice, and that such person may appeal in writing to the council within thirty (30) days from the date the notice is received by him or her and prior to the date of compliance. (Prior code § 10-2-5)

8.08.060 Service of notice.
Notice shall be personally served on the owner or person controlling such property, by a police officer of the town in the manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such property at his or her last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property, a duplicate notice shall also be sent to him or her by certified or registered mail at his or her last known address. (Prior code § 10-2-6)

8.08.070 Appeal to council.
Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the council from the demand of the clerk. The council shall, at its next regular meeting after receiving the appeal, hear and determine the same and the decision of the council shall be final. The council may either affirm or reverse the decision of the clerk or modify the scope of the work as required in the notice. (Prior code § 10-2-7)

8.08.080 Removal by town.

When any such person to whom notice, as aforesaid, has been given, and on or before the date of compliance on the notice, or within such further time as may have been granted by the council on appeal, fails, neglects or refuses to move from such property any or all litter, the clerk is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such property. Upon completion of the work, the clerk shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the property on which the work was done, including five 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 property in the manner prescribed in Section 8.08.060. The owner or person controlling such property shall have thirty (30) days from the date of service upon him to appeal in writing to the council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the clerk within such thirty (30) day period, then the amount of the assessment as determined by the clerk shall become final and binding. If an appeal is taken, the council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the council shall be final and binding on all persons. (Prior code § 10-2-8)

8.08.090 Lien for removal.

If no appeal is taken from the amount of the assessment, or if an appeal is taken and the council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the office of the county recorder and from the date of its recording, shall be a lien on the lot or tract of land until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The town shall have the right to bring an action to enforce the lien in the superior court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action. (Prior code § 10-2-9)

8.08.100 Placement of debris.

Any person, firm or corporation who shall place any litter upon any private or public property not owned or under the control of the person, firm or corporation

shall be guilty of a misdemeanor and, in addition to any fine which may be imposed for violation of any provision of this section, shall be liable for all costs which may be assessed pursuant to this chapter for the removal of the litter. (Prior code § 10-2-10)

Chapter 8.12

JUNKED MOTOR VEHICLES

Sections:

8.12.010 Definitions.
8.12.020 Storage declared nuisance.
8.12.030 Prohibited storage.
8.12.040 Permitted storage.
8.12.050 Notification, abatement and complaint.
8.12.060 Prosecution.
8.12.070 Violation—Penalty.

8.12.010 Definitions.

In this chapter, unless the context otherwise requires:

"Junked motor vehicle" means any motor vehicle which is, at minimum, of a type subject to registration under Title 28 of the Arizona Revised Statutes but does not have lawfully affixed thereto unexpired number or license plates assigned to the vehicle by any state, and, in addition, which exhibits one or more of the following conditions: wrecked, partially or fully dismantled, abandoned, stripped, substantially damaged, inoperative, inoperable, unused, scrapped, having the status of a hulk or shell, discarded or unable to be safely operated.

"Motor vehicle" means any self-propelled land vehicle which can be used for transporting persons or property.

"Person" means any natural person, firm, partnership, association, corporation, company or organization of any kind, but not the federal government, state, county, city or political subdivision of the state.

"Private property" means any real property not owned by the federal government, state, county, city or political subdivision of the state.

"Store" means parking, storing, leaving, locating, keeping, maintaining, depositing, remaining or physical presence.

"Structure" means:

1. Any enclosed garage or other permanent building lawfully constructed of opaque materials without openings, holes or gaps, other than doors and windows;
2. Any carport, if an opaque car cover completely covers the body of the vehicle; or
3. Any fence, wall or barrier, not less than five feet in height, constructed of opaque materials without openings, holes or gaps, other than gates or doors, completely enclosing the vehicle and equipped with self-latching gates or doors. (Prior code § 11-2-1)

8.12.020 Storage declared nuisance.

To store or to permit the storage of any junked motor vehicle on any private property within the town in violation of this chapter is declared dangerous to the public safety and a public nuisance. It is further declared that such storage

interferes with the enjoyment of property, reduces the value of private property, invites plundering, creates fire hazards, extends and aggravates urban blight and deterioration, represents a hazard to the health and safety of minors, attracts rodents and insects and poses a serious danger to the public health, safety, comfort, convenience, welfare and happiness. (Prior code § 11-2-2)

8.12.030 Prohibited storage.

A. It is unlawful for any person owning or having custody of any junked motor vehicle to store such vehicle or to permit such vehicle to remain on private property within the town, except as permitted by Section 8.12.040.
B. It is unlawful for any person owning or occupying any private property within the town to store any junked motor vehicle or to permit such vehicle to remain on the owned or occupied property, except as permitted by Section 8.12.040. (Prior code § 11-2-3)

8.12.040 Permitted storage.

This chapter shall not apply to any junked motor vehicle stored on private property within the town if the vehicle is:

A. On the premises of a business enterprise operated in a lawful place and manner and licensed by the town under Title 5 and the storage of the vehicle is necessary to the operation of the business enterprise; or
B. Lawfully enclosed within a structure. (Prior code § 11-2-4)

8.12.050 Notification, abatement and complaint.

A. Whenever the town is notified and finds that any junked motor vehicle is stored or permitted to remain on any private property within the town in violation of this chapter, the town shall mail or deliver a notice to the recorded owner or occupier of the private property, or the registered owner or custodian of the vehicle, to abate the nuisance within fifteen (15) days from the date the notice was mailed or delivered. The town shall specify in the notice the nature of the complaint, penalties and abatement remedies.
B. Abatement shall consist of one or more of the following remedies:
   1. Lawfully storing the vehicle pursuant to Section 8.12.040;
   2. Lawfully registering the vehicle and affixing thereto unexpired number or license plates assigned to the vehicle by any state; or
   3. The lawful removal and physical relocation of the vehicle to a location for storage not in conflict with this chapter.
C. The town may issue a misdemeanor complaint to the person so notified upon the passage of the aforementioned fifteen (15) day period if no abatement has occurred. (Prior code § 11-2-5)

8.12.060 Prosecution.

In any misdemeanor complaint proceeding for any violation of this chapter:

A. Within fifteen (15) days from the issuance of the complaint or at the arraignment, whichever date comes first, the prosecution shall move to dismiss the complaint if the defendant produces at town court competent

evidence of abatement as set forth in Section 8.12.050, and if necessary, the arraignment date may be continued to permit town verification of the abatement;

B. Photographic evidence showing that the vehicle did not have unexpired number or license plates affixed thereto on the date the photographic evidence was taken shall constitute prima facie evidence that the vehicle was not then currently registered and licensed. As a defense, evidence may be presented of the current registration for that vehicle. (Prior code § 11-2-6)

8.12.070 Violation—Penalty.

A. Wherever in this chapter any act is prohibited or declared to be unlawful, or the doing of any act is required, or the failure to do any act is declared to be unlawful, the violation of any provision of this chapter is a misdemeanor punishable by a fine of not less than twenty-five dollars ($25.00). No judge may suspend any fine established by this section.

B. Each day such violation continues shall constitute a separate offense as to each junked motor vehicle stored on private property in violation of this chapter. If a person has stored more than one such vehicle in violation of this chapter, each such vehicle shall constitute a separate violation. (Prior code § 11-2-7)

9. PUBLIC PEACE, MORALS AND WELFARE

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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Chapter 9.04

OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

9.04.010 Aid to an offense.
9.04.020 Assistance to police officers.
9.04.030 False or misleading reports to police.
9.04.040 False representation of peace officer.
9.04.050 Resisting an officer.

9.04.010 Aid to an offense.

When an act is declared a misdemeanor, and no punishment for counseling or aiding in the commission of the act is expressly prescribed by law, a person who counsels or aids another in the commission of the act is guilty of a misdemeanor. (Prior code § 11-1-3)

9.04.020 Assistance to police officers.

It is unlawful for a person over eighteen (18) years of age, after being lawfully commanded by a police officer of the town, to neglect or refuse to aid and assist the officer in taking or arresting a person against whom there is issued any process, retaking a person, who, after being arrested or imprisoned, has escaped from such arrest or imprisonment, or preventing a breach of the peace or commission of any criminal offense. (Prior code § 11-1-5)

9.04.030 False or misleading reports to police.

It is unlawful for any person willfully to make to the police department of the town any false, fraudulent, misleading or unfounded report or statement, or willfully to misrepresent any fact for the purpose of interfering with the operation of the police department or with the intention of misleading any police officer. (Prior code § 11-1-17)

9.04.040 False representation of peace officer.

A person who willfully and without authority, wears the badge of any peace officer, or a badge of similar design which would tend to deceive, or who impersonates a peace officer with the intent to deceive, is guilty of a misdemeanor. (Prior code § 11-1-18)

9.04.050 Resisting an officer.

A person who attempts by means of any threat or violence to deter or prevent a public officer from performing any duty imposed upon the officer by law, or who willfully resists, delays or obstructs a public officer in the discharge or attempt to discharge any duty of his or her office, or who knowingly resists by the use of force or violence the officer in the performance of his or her duty, where the punishment is not otherwise specifically prescribed, shall be guilty of a misdemeanor. (Prior code § 11-1-42)

Chapter 9.08

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

9.08.010 Assault and battery.
9.08.020 Cruelty to animals.
9.08.030 Disorderly house.
9.08.040 Indecent exposure.
9.08.050 Loitering.
9.08.060 Minors.
9.08.070 Noise.
9.08.080 Prostitution.
9.08.090 Riot—Failure to disperse.
9.08.100 Rout and unlawful assembly.
9.08.110 Spitting.

9.08.010 Assault and battery.

A. Defined.
   1. Any assault is an unlawful attempt coupled with a present ability to commit a violent injury upon the person of another.
   2. A battery is any willful and unlawful force of violence upon the person of another.
   3. An assault and battery may be committed by the use of any part of the body of the person committing the offense, as of the hand, foot, head, or by the use of any inanimate object, capable of inflicting the slightest injury, or by the use of any animate object, as by throwing or violently pushing one person against another, or driving a horse or other animal, automobile, bicycle or motor bicycle against a person.
   4. Any means used by the person assaulting, as by spitting in the face or otherwise, which is capable of inflicting any injury, comes within the definition of an assault or a battery as the case may be.

B. Prohibited—Permissible Violence— Degree of Force Permitted. Any person who commits an assault or battery or both upon the person of another is guilty of misdemeanor. Violence used to the person does not amount to assault or battery in the following cases:
   1. In the exercise of the right of moderate restraint or correction given by law to the parent over the child, the guardian over the ward, the teacher over the scholar;
   2. For the preservation of order in a meeting for religious, political or other lawful purposes;
   3. The preservation of the peace, or to prevent the commission of an offense;
   4. In preventing or interrupting an intrusion upon the lawful possession of property;

5. In making a lawful arrest and detaining the party arrested when authorized by law, or in obedience to the lawful order of a magistrate or court, and in overcoming resistance to such lawful order;
6. In self defense, or in defense of another against unlawful violence offered to the person or property;
7. In all cases where violence is permitted to effect a lawful purpose, only that degree of force must be used which is necessary to effect such purpose. (Prior code § 11-1-4)

9.08.020 Cruelty to animals.

A person who maliciously kills, maims or wounds an animal which is the property of another, or who, having charge or custody of an animal as owner or otherwise, overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, mutilates or cruelly kills an animal, or subjects an animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses an animal, or who cruelly drives, rides or otherwise uses the animal when unfit for labor, is guilty of a misdemeanor. (Prior code § 11-1-6)

9.08.030 Disorderly house.

A person who keeps a disorderly house, or any house or place of general or public resort by which the peace, comfort or decency of the immediate neighborhood is habitually disturbed, or who keeps an inn, hotel, rooming or lodging house in a disorderly manner, is guilty of a misdemeanor. (Prior code § 11-1-10)

9.08.040 Indecent exposure.

A person commits indecent exposure if he or she exposes his or her genitals or anus, or she exposes the areola or nipple of her breast or breasts, and another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act. A person committing the crime of indecent exposure is guilty of a misdemeanor. (Ord. 124 § 16, 1998: prior code § 11-1-25)

9.08.050 Loitering.

It is unlawful for any person, other than the owner, manager or his or her authorized representative, to interfere individually or collectively with free enjoyment of such property by the owners thereof; or interfere with the conduct of any lawful business by obstructing entrance to such business or by 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. (Prior code § 11-1-28)

9.08.060 Minors.

A. It is unlawful for a person to procure any spirituous liquor for the purpose of selling, giving or serving it to a person under the age of twenty-one (21) years

of age or for any person under twenty-one (21) years to purchase, attempt to purchase or otherwise procure or consume any spirituous liquor.

B. A person who sells, gives or furnishes cigars, cigarettes or cigarette papers, smoking or chewing tobacco, to a minor, and a minor who buys, or has in his possession or accepts or receives from any person, cigars, cigarettes or cigarette papers, smoking or chewing tobacco of any kind, is guilty of a misdemeanor. (Prior code § 11-1-30)

9.08.070 Noise.

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

B. It is unlawful to play, operate or use any device known as a sound track, loudspeaker or sound amplifier, or any instrument of any kind or character which emits music, vocal sounds or any other sound or noise, and which device or instrument is attached to or upon any motorized vehicle, if such noise or sound disturbs the peace of a neighborhood, family or person; or if the sound or noise is unreasonable.

C. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise and it is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance. (Ord. 124 § 17, 1998; prior code § 11-1-31)

9.08.080 Prostitution.

It is unlawful to engage in or agree or offer to engage in sexual conduct with another person under a fee arrangement with the person or any other person. (Ord. 124 § 19, 1998: prior code § 11-1-41)

9.08.090 Riot—Failure to disperse.

A person except a public officer and those assisting him or her in attempting to disperse a riot, rout or unlawful assembly, remaining present at the place of a riot, rout or unlawful assembly after the persons participating in it have been lawfully warned to disperse, is guilty of a misdemeanor. (Prior code § 11-1-43)

9.08.100 Rout and unlawful assembly.

A. When two or more persons, assembled and acting together, make an attempt or advance toward the commission of an act which would be a riot if actually committed, such assembly is a rout.
B. When two or more persons assemble together to do an unlawful act and separate without doing or advancing toward it, or do a lawful act in a violent, boisterous or tumultuous manner, such assembly is an unlawful assembly.
C. A person who participates in a rout or an unlawful assembly is guilty of a misdemeanor. (Prior code § 11-1-44)

9.08.110 Spitting.

It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the town or upon any public path, by-way or highway or in or on any public ground or park in the town, or upon the floor or interior of any public building in the town. (Prior code § 11-1-47)

Chapter 9.12

THEFT AND RELATED OFFENSES

Sections:

9.12.010 Fraud on business establishment.
9.12.020 Petty theft.
9.12.030 Stolen goods.

9.12.010 Fraud on business establishment.

A. Any person who obtains food, lodging or other service or accommodation at any business establishment without paying therefore, with intent to defraud the owner, proprietor or manager thereof, or who obtains credit at any such business establishment by the use of any false pretense, or who after obtaining credit for food, lodging or other service or accommodation at any such business establishment absconds or surreptitiously or by false means or by force, menace or threat removes any part of his or her baggage or personnel property there from without paying for such food, lodging or other service or accommodation, is guilty of a misdemeanor, if the value of such food, lodging or other service or accommodation is two hundred fifty dollars ($250.00).

B. Evidence that such person left the premises of any such business establishment without paying or offering to pay for such food, lodging, or other service or accommodation, or that the person refused or neglected to pay for such food, lodging or other accommodation upon demand, shall be prima facie evidence that such person obtained such food, lodging, or other service or accommodation with intent to defraud such business establishment. (Ord. 124 § 15, 1998; prior code § 11-1-21)

9.12.020 Petty theft.

It is unlawful for any person to commit petty theft which is defined as theft of any money, labor, services or property valued at less than two hundred fifty dollars ($250.00). (Prior code § 11-1-39)

9.12.030 Stolen goods.

It is unlawful for any person who, for his or her own gain, or to prevent the owner from gaining possession of the property, buys, conceals or receives personal property, knowingly or having reason to believe that the property is stolen; if the value of the property bought, concealed or received is less than two hundred fifty dollars ($250.00). In any prosecution pursuant to this section:

A. Proof of possession of property recently stolen, unless satisfactorily explained, may give rise to an inference that the person in possession of the property was aware of the risk that it had been stolen or in some way participated in its theft;

B. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, may give rise to an

inference that the person buying or selling the property was aware of the risk that it had been stolen;

C. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, may give rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen. (Ord. 124 § 20, 1998: prior code § 11-1-48)

Chapter 9.16

PROPERTY OFFENSES

Sections:

9.16.010 Dangerous constructions.
9.16.020 Damage to property.
9.16.030 Deposits of injurious material on thoroughfares.
9.16.040 Excavations to be covered.
9.16.050 Fences—Barbed wire and electric.
9.16.060 Littering.
9.16.070 Nuisance.
9.16.080 Obstruction of streets.
9.16.090 Obstruction of view.
9.16.100 Offensive business.
9.16.110 Offensive premises.
9.16.120 Signs and banners.
9.16.130 Trespass upon property.
9.16.140 Water—Flow upon streets prohibited.

9.16.010 Dangerous constructions.

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety. (Prior code § 11-1-7)

9.16.020 Damage to property.

A. It is unlawful for any person, or persons to damage in any manner or attempt to damage or tamper with any pipe lines, water hydrants, street lamps or lights, 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 thrown open to public use.
C. It is unlawful for any person, firm or corporation to damage in any manner any road, street or bridge in the town limits by using the same, by heavy vehicles, malicious destruction, or by any act that will result in damage to the roads, streets or bridges.
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, mutilate or injure the same.

E. It is unlawful for any person within the town to throw stones or other missiles at railroad trains; or to let off the brakes of railroad cars standing on side tracks or tamper with the couplings of railroad cars, or to uncouple cars standing on railroad tracks, or to uncouple the air hose of the air brake system on railroad cars; or to remove, tamper with or break switch lamps or other signals set to control the movements of trains, or to jump on or off moving trains, or to throw refuse upon or in any way litter the depot or station grounds of any railroad. (Prior code § 11-1-8)

9.16.030 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. (Prior code § 11-1-9)

9.16.040 Excavations to be covered.
A. Any person who shall 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 shall be guilty of a misdemeanor.
B. Any person who shall maintain a well, cellar, pit or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering or protection shall be guilty of a misdemeanor. (Prior code § 11-1-15)

9.16.050 Fences—Barbed wire and electric.
It is unlawful for any person to erect or maintain within the town any electric fence or any fence constructed in whole or in part of barbed wire. Any such fence is declared a public nuisance and subject to abatement by order of the town court. (Prior code § 11-1-19)

9.16.060 Littering.
It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds, or church grounds, or other property of the town or upon any private property not owned by him or upon the surface of any body of water within the town. (Prior code § 11-1-27)

9.16.070 Nuisance.
A. Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by a considerable number of persons, or which unlawfully obstructs the free passage or use, in the customary manner, of any public park, square, alley, sidewalk, street or highway, is a public nuisance, and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal.
B. A person who maintains or commits a public nuisance, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.
C. A public nuisance may be abated by order of the town court. (Prior code § 11-1-32)

9.16.080 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 property or with any business lawfully conducted by anyone, in or upon, or facing or fronting on any of such streets, alleys, sidewalks, parks or other public grounds in the town. (Prior code § 11-1-35)

9.16.090 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. (Prior code § 11-1-36)

9.16.100 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. (Prior code § 11-1-37)

9.16.110 Offensive premises.

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him or her, or any cellar, privy, vault, pool, sewer or private drain therein to become nauseous, foul, or offensive to the senses or prejudicial to the public health or comfort. (Prior code § 11-1-38)

9.16.120 Signs and banners.

It is unlawful for any person to place any banner or sign upon any street light pole, traffic signal pole or utility pole within the town without first obtaining authorization from the council. (Prior code § 11-1-46)

9.16.130 Trespass upon property.

A person is guilty of a misdemeanor who willfully commits any trespass by either:

A. Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof;
B. Digging, taking or carrying away from a lot, without license of the owner or legal occupant thereof, any earth, soil, stones, ores or minerals;
C. Digging, taking or carrying away from any land in the town delineated on the plan of the town, or otherwise recognized or established as a street, alley, avenue or park, without license of the proper authorities, any earth, soil, stone, ores or minerals;
D. Putting up, affixing, fastening, printing or painting upon any private or public property, without license from the owner, a notice, advertisement or

designation of, or a name for any commodity, whether for sale or otherwise, or any picture, sign or device intended to call attention thereto;

E. Willfully opening, tearing down or destroying a fence on the enclosed land of another, or opening a gate, bar or fence of another and willfully leaving it open without permission of the owner;

F. Loitering or prowling upon the private property of another, without consent of or lawful business with the owner or occupant thereof. (Prior code § 11-1-49)

9.16.140 Water—Flow upon streets prohibited.

A. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town.

B. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch, or waste ditch in which the person has a vested right or interest or through the willful or negligent failure of the person to accept irrigation water after it has been ordered by him or her. (Prior code § 11-1-51)

Chapter 9.20

CURFEW

Sections:

9.20.010 Juveniles under sixteen years—Exceptions.
9.20.020 Juveniles sixteen years of age or older—Exceptions.
9.20.030 Responsibility of parent or guardian.
9.20.040 Violations—Exceptions.
9.20.050 Violations—Knowledge by parent or guardian.
9.20.060 Violations—Separate offenses.
9.20.070 Violations—Delivery of juvenile into custody of parent or guardian.
9.20.080 Violations—Penalties.

9.20.010 Juveniles under sixteen years—Exceptions.

It is unlawful for any juvenile under the age of sixteen (16) years to be, remain or loiter in, about or upon any place in the town away from the dwelling house or usual place of abode of the juvenile, between the hours of ten p.m. and five a.m. of the following day. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(A))

9.20.020 Juveniles sixteen years of age or older—Exceptions.

It is unlawful for any juvenile sixteen (16) years of age or older and under the age of eighteen (18) years to be, remain or loiter in, about or upon any place in the town away from the dwelling house or usual place of abode of said juvenile, between the hours of twelve midnight and five a.m. of the following day. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(B))

9.20.030 Responsibility of parent or guardian.

It is unlawful for the parent, guardian or other adult person having the care, custody or supervision of a juvenile to permit such juvenile to be, remain or loiter in, about or upon any place in the town away from the dwelling house or usual place of abode of the juvenile in violation of Sections 9.20.010 and 9.20.020. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(C))

9.20.040 Violations—Exceptions.

The curfew set forth in Sections 9.20.010 through 9.20.030 do not apply:

A. To legally emancipated minors, whether the emancipation be through marriage, military service or other legally sufficient grounds;
B. To minors who are accompanied by their parent, guardian or other person having the legal care and custody of the minor;
C. To minors who would otherwise be in violation of the terms of this chapter when:
    1. Their presence is reasonably required in the pursuit of a lawful occupation, business or profession in which the minor is then engaged; with the

permission of a parent, guardian or other person having the legal care and custody of the minor, or

2. The minor is on an emergency errand, medical or otherwise, or
3. The minor is going to or from a place or function sponsored by or related to school, church, civic, or other nonprofit organization. These functions shall include, but are not necessarily limited to: classes, services, meetings, dances, dramatic or musical performances, sporting events, or other social events sponsored by school, religious, civic or other nonprofit organizations, with the permission of the parent, guardian or other person having the legal care and custody of the minor. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(D))

9.20.050 Violations—Knowledge by parent or guardian.

It shall not constitute a defense hereto that such parent, guardian or other adult person having the care, custody or supervision of such juvenile coming within the provisions of Section 9.20.010 or 9.20.020, did not have actual knowledge of the presence of such juvenile in, or about or upon any place in the town away from the dwelling house or usual place of abode of the juvenile, if the parent, guardian or other person having the care, custody or supervision of such juvenile or juveniles, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of such juvenile or juveniles. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(E))

9.20.060 Violations—Separate offenses.

Each violation of the provisions of Sections 9.20.010 through 9.20.030 shall constitute a separate offense. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(F))

9.20.070 Violations—Delivery of juvenile into custody of parent or guardian.

In addition to any other powers he or she may have, any law enforcement officer who arrests a juvenile for violating any of the provisions of Section 9.20.010 or 9.20.020 is also empowered to demand of the parent, guardian or other person having the care, custody or supervision of such juvenile that such parent, guardian or other person come and take such juvenile into custody. Should there be a failure of the parent, guardian or other person to take custody of such juvenile, the officer may then be empowered to take such juvenile home. It is unlawful for any such parent, guardian or other person having the care, custody or supervision of the juvenile to fail or refuse to take such juvenile into custody after such demand is made upon him or her. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(G))

9.20.080 Violations—Penalties.

A. It is unlawful for any juvenile to violate the provisions of Sections 9.20.010 and 9.20.020; the proceedings shall be taken in accordance with and pursuant to the juvenile code as contained in the Arizona Revised Statutes, Title 8, Chapter 2, with appropriate penalties in accordance with Arizona law.

B. Any parent or guardian of the person of the juvenile who shall violate the provisions of Sections 9.20.030, 9.20.050 and 9.20.070 shall be guilty of a Class 3 misdemeanor. (Ord. 114 § 2 (part), 1996: prior code § 11-1-53(H))

Chapter 9.24

DISCRIMINATION

Sections:

9.24.010 Declaration of policy.
9.24.020 Definitions.
9.24.030 Enforcement committee.
9.24.040 Prohibited acts.
9.24.050 Procedures, powers and enforcement.
9.24.060 Administrative provisions.
9.24.070 Conciliation agreement violations.
9.24.080 Power of subpoena.
9.24.090 Violations—Penalties.

9.24.010 Declaration of policy

It is declared to be among the civil rights of the people of the city to be free from discrimination in housing, and it to be contrary to the policy of the town and unlawful to discriminate against any person because of sex, race, color, creed, national origin or ancestry in housing. (Ord. 88 § 1, 1987)

9.24.020 Definitions

In this section, unless the context otherwise requires:

"Discriminate or discrimination" means to make, directly or indirectly, any distinction with respect to any person or persons based on sex, race, color, religion or national origin or ancestry.

"Financial institution" means any person as defined herein engaged in the business of lending money or guaranteeing losses.

"Housing" means: (1) any parcel or parcels of real property or lands, or any interest therein, whether contiguous or noncontiguous, located in the town 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; and/or (2) any real property, or any interest therein, located in the town; and/or (3) any single-family dwelling or multiple-family dwelling or trailer house or trailer space or any portion thereof, including a housing unit or a rooming unit, or any interest therein, located in the town, which is used or occupied, or intended, arranged assigned or designated to be used or occupied, as the home, homesite, residence or sleeping place of one or more persons; and/or (4) a single room, suite of rooms or apartment 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.

"Owners" include a lessee, sublessee, co-tenant, assignee, managing agent or other person having right of ownership or possession or the right to sell, rent or lease any housing.

"Person" means an individual and a group of any one or more persons such as, but not limited to, labor unions, joint apprenticeship committees, partnerships,

associations, corporations, unicorporations organizations, mutual companies, joint stock companies, trusts, legal representatives, 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, includes members, representatives, officers and directors, agents and employees.

"Real estate broker" or "real estate salesperson" means an 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 accommodation, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds her or himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer to any housing accommodation; or who is engaged in the business or charging an advance fee or contracting for collection of a fee in connection with a contract whereby she or he undertakes to promote the sale, purchase, exchange, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these. (Ord. 88 § 2, 1987)

9.24.030 Enforcement committee

A. The town shall establish a housing committee appointed by the mayor and town council.
B. Each committee member shall serve for a term of one year and until his or her successor is appointed. One of members of the committee shall be elected by the member 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 the committee, or, in his or her absence, any one of the committee members.
D. Any orders or findings issued by a 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 number of the members of 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 and must comply with the state of Arizona open meeting laws. (Ord. 88 § 3, 1987)

9.24.040 Prohibited acts

A. For any person, including but not limited to owners, lessees, agents, real estate brokers, real estate salespersons, trustees, mortgagees, financial institutions, title companies or insurance companies:

1. To discriminate against any person because of sex, race, color, religion, ancestry or national origin in the sale, lease, rental or other transfer of interest in housing;
2. To so discriminate in the extension of loans, credit, insurance or other transfer of interest in housing;
3. To print or circulate, or cause to be printed or circulated, any publication, or to use any form of application or to make any inquiry in connection with prospective sales, leases, rentals or other transfers of interest in housing, or the extension of credit, loans, insurance or other services relating to the transfer of interest in housing, which expresses directly or indirectly any limitation, specification or discriminations as to sex, race, color, religion, ancestry or national origin, or expresses any intent to make any such limitation, specification or discrimination.

B. To refuse to receive or transmit a bona fide offer to sell, purchase, exchange, rent or lease any housing from or to a person because of his or her sex, race, color, religion, ancestry or national origin.

C. To refuse to negotiate for the sale, purchase, exchange, rental or lease of any housing to a person because of his or her sex, race, color, religion, ancestry or national origin.

D. To represent to a person that any housing 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 because of his or her sex, race, color, religion, ancestry, national origin.

E. For any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this section or to attempt to do so.

F. 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 sex, color, religion, ancestry, national origin.

G. The above subsection shall not be a violation of the town code unless and until the town attorney or its duly appointed agent has sent a prior written notice to the person charged with going upon the property of another and committing the above described acts, the notice advising the offending party that she or he is unwelcome on the occupant's property and that she or he may be charged under this subsection if she or he, after receipt of the notice, commits acts which are in violation of this subsection.

H. This subsection does not preclude the offending party from being charged with a violation of any offense that she or he might have committed not covered herein merely because the offending party did not receive written notice. (Ord. 88 § 4, 1987)

9.24.050 Procedures, powers and enforcement

A. The town attorney, or the housing committee, may authorize the city staff to effectuate conciliations between an aggrieved person and an alleged violator prior to a formal finding of any unlawful practices when the facts and circumstances properly indicate such action. If the finding is made that an

unlawful practice has been or is being committed, the committee shall endeavor to eliminate the unlawful practice by conference, conciliation and persuasion. If the committee fails thereby to eliminate such unlawful practice:

1. In the case of a violation of Section 9.24.040, it shall issue an order to the violator within the aforesaid thirty (30) day 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 under Section 9.24.040, it shall file a criminal complaint with the town attorney for appropriate action.

B. If the committee finds that no unlawful practice has been or is being committed a copy of such finding shall be promptly mailed to the grievant. The grievant shall thereafter have the right to file a criminal complaint with the town attorney for appropriate action.

C. If the committee fails to file its finding or a statement setting forth valid reasons for not having done so with the town attorney within sixty (60) days after a grievance is filed with the housing committee, the grievant shall thereafter have the right to file a criminal complaint.

D. If another grievance is filed against a person, after a cease and desist order pursuant to subsection (A)(1) of this section has been issued by the committee against the person, and upon investigation, the committee finds that such person has committed any further violation of this chapter, a criminal complaint may be filed with the town attorney by the aggrieved person or by the committee.

E. No criminal complaint for the enforcement of any provisions of this section may be filed unless and until such filing is specifically authorized by this section.

F. All complaints alleging violations of Section 9.24.040, shall be in writing and filed with the housing committee. The complaints shall be filed within thirty (30) working days from the date of violation. All complaints shall be resolved within one hundred twenty (120) days from the time they are filed. The housing committee shall cause a summary of complaints to be given to the chairperson of the committee. In carrying out the above provisions, the housing committee shall have full authority to investigate and resolve the complaints. (Ord. 88 § 5, 1987)

9.24.060 Administrative provisions

The town 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 chapter. Such rules and regulations to become effective upon their approval by the 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 provisions of this chapter. (Ord. 88 § 7, 1987)

9.24.070 Conciliation agreement violations

If the town attorney or housing committee and a person accused of a violation of this chapter shall reach agreement and execute a conciliation agreement, and such person shall then violate any terms and conditions of the conciliation agreement, it shall be as if such agreement had never been executed.

In such event, the town attorney shall file such criminal charges as are proper under the town ordinance, and further shall take other civil or criminal action as may be permitted under the Arizona Revised Statutes. (Ord. 88 § 8, 1987)

9.24.080 Power of subpoena

The town attorney or the housing committee may: subpoena witnesses at hearings and compel their attendance; administer oaths; take the testimony of any person under oath, and when deemed necessary record such testimony; and require the production for examination of books and paper relating to any matter before the housing committee. Failure to obey a subpoena issued pursuant to this section shall constitute a contempt punishable upon action of the town attorney before the superior court.

Any person appearing pursuant to this section shall have the right to be represented by legal counsel. (Ord. 88 § 9, 1987)

9.24.090 Violations—Penalties

Upon conviction of each violation of any provisions of this chapter not otherwise provided for, the person so convicted shall be guilty of a misdemeanor and shall be punished by a fine of not more than three hundred dollars ($300.00) or by imprisonment in the town jail for a period not to exceed three months, or both. (Ord. 88 § 6, 1987)

Chapter 9.28

WEAPONS AND EXPLOSIVES

Sections:

9.28.010 Explosives.
9.28.020 Weapons.

9.28.010 Explosives

It is unlawful for any person within the limits of the town to blast, or use powder, fireworks or other explosives without a permit from the chief of police in writing. (Prior code § 11-1-16)

9.28.020 Weapons

A. Discharge of Firearms Prohibited. It is unlawful for any person within the limits of the town to fire or discharge any firearm, BB gun, air gun, pellet gun, dart gun, slingshot, gas-operated gun or other similar gun or instrument.

B. Exceptions. The prohibitions of the preceding subsection shall not apply to the use of any such gun or instrument by:
   1. A law enforcement officer or other duly authorized public official or employee in the performance of any official duty;
   2. Any person to whom a license, permit or authority is issued by the chief of police of the town for the use of such gun or instrument for a valid and proper purpose and for use in a manner not likely to harm any person, animal or property;
   3. Any person when used only for the necessary protection of property, habitation or person in a manner authorized by the laws of the state under or within rights guaranteed by the constitution of the state or the United States of America.

C. Reckless Handling of Weapon Prohibited. It is a misdemeanor for any person to recklessly or carelessly handle a weapon.

D. Carrying of Weapon at Public Event. Any person, other than a peace officer on duty carrying a weapon, upon entering any public place or attending a public event, may be required by the operator of the establishment or the sponsor of the event to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event.

E. Every person convicted of a violation of this section shall forfeit to the town such gun or instrument so fired or discharged. (Ord. 123 § 2 (part), 1998; prior code § 11-1-52)

Chapter 9.32

MISCELLANEOUS OFFENSES

Sections:

9.32.010 Abandoned refrigerators and containers.
9.32.020 Searchlights.

9.32.010 Abandoned refrigerators and containers

A person who abandons, discards, stores or keeps in any place accessible to children, or who, as the owner, lessee or manager, permits to remain on premises under his or her control, in any place accessible to children, a refrigerator, icebox, freezer cabinet or similar container, of a capacity of not less than one and one-half cubic feet, which is no longer used for refrigeration purposes, without the attached doors, hinges, lids or latches being removed, is guilty of a misdemeanor. (Prior code § 11-1-1)

9.32.020 Searchlights

It is declared to be unlawful for any person or persons to operate within the town any incandescent or arc type searchlight, beacon light or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance in excess of one-half mile unless permission is obtained from the council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority. (Prior code § 11-1-45)

Chapter 9.36

WATER ACTIVITIES ON PUBLIC PROPERTY

Sections:

9.36.010 Applicability.
9.36.020 Prohibited activities.
9.36.030 Exceptions.
9.36.040 Penalty.

9.36.010 Applicability

This section shall apply annually during the time period in which a parade permit has been issued in accordance with the Town Code. This time period shall include the actual time of the parade procession, staging and de-staging of the parade or procession. This section shall apply to only that area of public property or public right of way within the scope of the parade permit, which will include the route of the procession and areas of staging and de-staging.

9.36.020 Prohibited activities

The following activities are hereby declared unlawful:

A. To knowingly or intentionally cause water balloons or other devices which have water or other liquids or substances contained therein to be thrown, tossed or otherwise projected onto, from or across any public property or public right of way.
B. The use of any motorized, electric, or gas powered device to spray or otherwise disperse water or other liquids contained therein onto, from or across any public property or public right of way.
C. Throwing or otherwise knowingly or intentionally causing water or other liquids to be sprayed, thrown or otherwise dispersed onto, from or across any public property or public rights of way.

9.36.030 Exceptions

That notwithstanding anything to the contrary contained in this chapter, the following shall not constitute a violation of this chapter.

A. Activities of governmental employees, when such activities are required in the course of their employment.
B. Activities of non-governmental employees who have been requested to and are assisting governmental employees pursuant to subsection B.1 of this section.

9.36.040 Penalty

Any person who violates any provision of this ordinance may be guilty of a misdemeanor.

10. VEHICLES AND TRAFFIC

Title 10

VEHICLES AND TRAFFIC

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Chapter 10.04

TRAFFIC ADMINISTRATION

Sections:

10.04.010 Duty of police chief.
10.04.020 Records of traffic violations.
10.04.030 Police chief to investigate accidents.
10.04.040 Traffic accident studies.
10.04.050 Traffic accident reports.
10.04.060 Police chief to submit annual traffic safety report.

10.04.010 Duty of police chief.

It shall be the duty of the police chief to enforce the street traffic regulations of the town and all of the state vehicle laws applicable to street traffic in the town, to make arrests for traffic violations, to investigate accidents and to assist in developing ways and means to improve traffic conditions and to carry out all duties specially imposed upon the police chief by this chapter. (Prior code § 12-1-1)

10.04.020 Records of traffic violations.

A. The police chief shall keep a record of all violations of the traffic laws of the town or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.
B. All forms for records of violations and notices shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.
C. All records and reports shall be public records. (Prior code § 12-1-2)

10.04.030 Police chief to investigate accidents.

It shall be the duty of the police chief to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents. (Prior code § 12-1-3)

10.04.040 Traffic accident studies.

Whenever the accidents at any particular location become numerous the police chief shall conduct studies of such accidents and determine remedial measures. (Prior code § 12-1-4)

10.04.050 Traffic accident reports.

A. The police chief shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location.

B. The police chief shall receive and properly file all accident reports made to him or her under state law or under any law of the town, but all such accident reports made by drivers shall be for the confidential use of the town and no such report shall be admissible in any civil or criminal proceeding other than upon request of any person making such report or upon request of the court having jurisdiction, to prove a compliance with the laws requiring the making of any such report. (Prior code § 12-1-5)

10.04.060 Police chief to submit annual traffic safety report.

The police chief shall annually prepare a traffic report which shall be filed with the clerk. Such report shall contain information on traffic matters in the town as follows:

A. The number of traffic accidents, the number of persons killed, the number of persons injured and other pertinent traffic accident data;
B. The number of traffic accidents investigated and other pertinent data on the safety activities of the police chief;
C. The plans and recommendations of the police chief for future traffic safety activities. (Prior code § 12-1-6)

Chapter 10.08

TRAFFIC CONTROL REGULATIONS

Sections:

10.08.010 Directing traffic.
10.08.020 Obedience to traffic regulations.
10.08.030 Traffic control devices.
10.08.040 Avoidance of traffic control devices.
10.08.050 Authority to designate crosswalks, establish safety zones and mark traffic lanes.
10.08.060 Authority to place and obedience to turning markers.
10.08.070 Authority to place and obedience to restricted turn signs.
10.08.080 Limitations on turning around.
10.08.090 One-way streets and alleys.
10.08.100 Regulation of traffic at intersections.
10.08.110 Processions.
10.08.120 Speed limits.

10.08.010 Directing traffic.

A. The police chief is authorized to direct all traffic by voice, hand or signal.
B. Officers of the fire department, when at the scene of a fire, may direct or assist the police chief in directing traffic thereat or in the immediate vicinity. (Prior code § 12-2-1)

10.08.020 Obedience to traffic regulations.

It is unlawful for any person to do any act forbidden or fail to perform any act required by this chapter. It is unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of the police chief or of any fire department official. (Prior code § 12-2-2)

10.08.030 Traffic control devices.

A. The police chief, with the approval of the council, shall place and maintain traffic-control devices, signs and signals when and as required under the traffic regulations of the town to make effective the provisions of said regulations, and may place and maintain such additional traffic-control devices as he or she may deem necessary to regulate traffic under the traffic laws of the town or under state law or to guide or warn traffic.
B. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic regulations of the town, unless otherwise directed by the police chief, subject to the exceptions granted in this chapter or by state law. (Prior code § 12-2-4)

10.08.040 Avoidance of traffic control devices.

A. No person shall operate a motor vehicle upon private property in order to avoid complying with the legal traffic control signal or sign within the limits of the town.
B. Violation of this section shall constitute a petty offense as defined by the Arizona Revised Statutes. A second conviction for such violation, within one year thereafter, shall be a Class 3 misdemeanor as defined by the Arizona Revised Statutes and a third or subsequent conviction for such a violation within one year after the last conviction is a Class 2 misdemeanor. (Ord. 48 §§ 1, 2, 1979: prior code § 12-2-13)

10.08.050 Authority to designate crosswalks, establish safety zones and mark traffic lanes.

The police chief is authorized, on approval by the council:
A. To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his or her opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary;
B. To establish safety zones of such kind and character and at such places as he or she may deem necessary for the protection of pedestrians;
C. To mark lanes for traffic on street pavements at such places as he or she may deem advisable, consistent with the traffic laws of the town. (Prior code § 12-2-5)

10.08.060 Authority to place and obedience to turning markers.

A. The police chief is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law.
B. When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (Prior code § 12-2-6)

10.08.070 Authority to place and obedience to restricted turn signs.

A. The police chief, on approval by the council, is authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or such signs may be removed when such turns are permitted.
B. Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (Prior code § 12-2-7)

10.08.080 Limitations on turning around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic. (Prior code § 12-2-8)

10.08.090 One-way streets and alleys.

A. The council shall by resolution designate any streets or alleys which are to be limited to one-way traffic.
B. When any resolution of the council designates any one-way street or alley, the police chief shall place and maintain signs giving notice thereof, and no 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. (Prior code § 12-2-9)

10.08.100 Regulation of traffic at intersections.

A. The council shall by resolution designate through streets, intersections where stops are required, and intersections where vehicles shall yield the right of way.
B. When any resolution of the council shall designate any through street or intersection where vehicles are to stop or yield the right of way, the police chief shall erect and maintain the appropriate signs at every location where a vehicle must stop or yield the right of way. (Prior code § 12-2-10)

10.08.110 Processions.

A. No procession or parade, except funeral processions, shall be held without first securing a permit from the police chief, and all such requests for permits shall state the time, place of formation, proposed line of march, destination and such other regulations as the police chief may set forth therein.
B. A funeral procession composed of a procession of vehicles shall be identified by such methods as may be determined and designated by the police chief.
C. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or the police chief.
D. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe. (Prior code § 12-2-12)

10.08.120 Speed limits.

A. A person shall not drive a vehicle on any of the streets within the town at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the

roadway in compliance with the legal duty and requirements of all persons to exercise reasonable care for the protection of others.

B. Except as provided in subsection C of this section, or where a special hazard requires a lesser speed, any speed in excess of these speeds is prima facia evidence that the speed is too great and therefore unreasonable:
   1. Thirty-five (35) miles per hour on Main Street and 260 Spur (also known as South Mountain Avenue), except as otherwise posted;
   2. Twenty-five (25) miles per hour in all other business or residential districts;
   3. Fifteen (15) miles per hour on unpaved, residential streets, as posted;
   4. Any street or road within the town boundaries which are not posted with traffic control signs indicating the speed limit shall have a maximum speed limit of twenty-five (25) miles per hour.

C. The maximum speed as provided in this section shall be reduced to that which is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, such as when:
   1. Approaching and crossing an intersection;
   2. Approaching and going around a curve;
   3. Approaching a hill crest;
   4. Traveling upon any unpaved road;
   5. Traveling upon any narrow or winding roadway;
   6. When special hazards exist with respect to pedestrian, bicycle or other traffic or by reason of weather, construction or other highway conditions.

D. The common council may, by motion or resolution, set specific speed limits for specific streets and roads within the town limits.

E. Residents and citizens of the town may petition or otherwise request the common council to modify speed limits in their neighborhoods at a public meeting. (Ord. 103 §§ 1—5, 1993)

Chapter 10.12

PARKING

Sections:

10.12.010 General prohibitions.
10.12.020 Double parking.
10.12.030 Loading zones.
10.12.040 No parking zones.
10.12.050 Zones, designation and marking.
10.12.060 Limitation on parking of vehicles.
10.12.070 Abandoned vehicles.

10.12.010 General prohibitions.

No person shall park a vehicle in any of the following places:

A. Within an intersection, or within ten feet of the corner of an intersection;
B. Upon any sidewalk;
C. Upon any crosswalk;
D. Upon any street or highway within fifteen feet of a fire hydrant;
E. Upon or in front of any private road or driveway. (Prior code § 12-3-1)

10.12.020 Double parking.

No vehicle shall be doubled parked on Main Street along United States Highway Sixty within the corporate limits of the town unless a licensed driver is in attendance of such vehicle; and in no event shall any vehicle be double parked for a period of time in excess of ten minutes. (Prior code § 12-3-3)

10.12.030 Loading zones.

No person shall park in a loading zone except to load or unload his or her vehicle. Loading and unloading vehicles shall be carried on expeditiously and should be accomplished within a reasonable time. (Prior code § 12-3-4)

10.12.040 No parking zones.

No person shall park a vehicle in a zone designated and marked, as the council shall provide, as a zone in which parking of vehicles is prohibited. (Prior code § 12-3-5)

10.12.050 Zones, designation and marking.

A. No Parking Zones. The council shall designate zones wherein no parking shall be permitted, and shall mark the same by painting the curb within such zone red, and with such other sign or marking as the council shall deem necessary or appropriate.
B. Loading Zones. The council shall designate zones wherein vehicles may be loaded or unloaded exclusively, and shall mark the same by painting the curb within such zone yellow, and with such other sign or marking as the council shall deem necessary or appropriate.

C. Other Zones. The council may designate such other zones for such purposes, and mark the same in such manner, as it shall deem necessary and appropriate. (Prior code § 12-3-6)

10.12.060 Limitation on parking of vehicles.

The council may limit the time during which a vehicle may be parked in any one parking space on any street within the corporate limits of the town, and shall designate such limitation by such sign or signs as it shall deem necessary. (Prior code § 12-3-7)

10.12.070 Abandoned vehicles.

Any vehicle remaining parked upon any sidewalk of the town for more than three days, or any disabled vehicle remaining parked upon any street of the town for more than seven days, is declared to be an abandoned vehicle and the police shall forthwith remove the same from the sidewalks or streets of the town at the expense of the owner of such vehicle. (Prior code § 12-3-8)

Chapter 10.16

VEHICLE WEIGHT RESTRICTIONS

Sections:

10.16.010 Weight restrictions within residential areas and other roads.
10.16.020 Weight restrictions on federal highways, state highways and other designated streets.
10.16.030 Exemptions.
10.16.040 Weighing of vehicles—Penalty.
10.16.050 Unlawful weight.
10.16.060 Liability—Street or structure damage.
10.16.070 Overweight permits.
10.16.080 Procedures—Presumption.
10.16.090 Violations—Penalties.

10.16.010 Weight restrictions within residential areas and other roads.

It is unlawful for any person, partnership, association, company or corporation to operate a vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds on the public streets in any residential area or on other roads within the corporate limits of the town, except highways or roads designated in Section 10.16.020. (Ord. 119 § 1 (part), 1997: prior code § 12-4-1)

10.16.020 Weight restrictions on federal highways, state highways and other designated streets.

Weight restrictions for motor vehicles operated on federal highways and state highways and other designated streets shall be in accordance with Arizona Revised Statutes, Title 28, Chapter 6, Article 18, as amended, or after January 1, 1997 in accordance with Title 28, Chapter 7, Article 11, as amended. Within the town of Springerville, the highways and streets subject to the weight limitations set forth in Arizona Revised Statutes shall be the following:

A. U.S. Highway 60;
B. U.S. Highway 666;
C. State Highway 260S;
D. State Highway 180;
E. Airport Road between State Highway 260S and the Springerville Municipal Airport.

These highways and streets are depicted on the Town of Springerville Map, attached as Exhibit A to the ordinance codified in this chapter. (Ord. 119 § 1 (part), 1997: prior code § 12-4-2)

10.16.030 Exemptions.

This chapter shall not apply to either:

A. Public fire, safety, emergency or transportation vehicles;
B. Federal, state, town, school district and other special district vehicles on official business;

C. Mail or package delivery vehicles, whether public or private;
D. Moving vans when delivering household furniture or other personal effects for families moving to or from the town;
E. Implements of husbandry, including farm tractors, that are temporarily moved on a street, road or highway;
F. Vehicles operated under the terms of a special permit issued pursuant to this chapter. (Ord. 119 § 1 (part), 1997: prior code § 12-4-3)

10.16.040 Weighing of vehicles—Penalty.

A. Any police or peace officer employed within the state of Arizona, having reason to believe that the weight of a vehicle and load does not conform to the provisions of this chapter, is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales and may require that the vehicle be driven to the nearest public scales in the event such scales are within four miles.
B. Failure to submit to weighing as required by this section shall be punishable as a Class 1 misdemeanor with penalties in accordance with Arizona Revised Statutes, Title 13, Chapters 7 and 8, as amended. (Ord. 119 § 1 (part), 1997: prior code § 12-4-4)

10.16.050 Unlawful weight.

When an officer, upon weighing a vehicle and load as provided in Section 10.16.040, determines that the weight does not conform to the provisions of this chapter, the officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of the owner or operator. (Ord. 119 § 1 (part), 1997: prior code § 12-4-5)

10.16.060 Liability—Street or structure damage.

A. A person driving a vehicle within residential areas or on other roads as set forth in Section 10.16.010, shall be liable for all damage that the road or structure may sustain as a result of any illegal operation or driving or moving of the vehicle or as a result of operating, driving or moving a vehicle weighing in excess of the maximum weight set forth in this chapter, even if authorized by a special permit issued by an appropriate governmental entity.
B. If the driver is not the owner of the vehicle but is operating, driving or moving the vehicle with the express or implied permission of the owner, the owner and the driver shall be jointly and severally liable for any such damage.
C. The town, person or entity in control of the street or structure may recover the damage in a civil action or as restitution in a criminal action. (Ord. 119 § 1 (part), 1997: prior code § 12-4-6)

10.16.070 Overweight permits.

The chief of police, or his or her designee, upon application in writing and for good cause shown, may issue a special permit in writing authorizing the applicant to operate a vehicle exceeding the maximum weight limit specified in this chapter upon payment of the following fee:
Seventy-five dollars ($75.00) for each daily permit and two hundred dollars ($200.00) for each thirty (30)-day permit issued for excess weight; except that a six hundred dollar ($600.00) fee is required for each annual permit. (Ord. 119 § 1 (part), 1997: prior code § 12-4-7)

10.16.080 Procedures—Presumption.

A. If a person is arrested for violating Section 10.16.010 or 10.16.020, the arresting officer may take the person immediately before a magistrate or justice of the peace within Apache County who has jurisdiction of the offense.
B. A weight certificate or any other document that evidences the receipt of goods for shipment, that is issued by a person engaged in the business of transporting or forwarding goods and that states the gross weight of the vehicle with load that is in excess of the prescribed maximum weight limitation permitted by Section 10.16.010 or 10.16.020 is prima facie evidence that the weight of a vehicle and load is unlawful. The presumption that the weight of the vehicle and load is lawful may be rebutted by the weight of the vehicle and load as shown by means of a portable or stationary scale operated by the state of Arizona or by the town; or a public weighmaster scale. (Ord. 119 § 1 (part), 1997: prior code § 12-4-8)

10.16.090 Violations—Penalties.

A. Penalties and fines allowed by this chapter shall be in accordance with Arizona Revised Statutes, Title 13, Chapters 7 and 8, as amended.
B. A conviction for the violation of Section 10.16.010 or 10.16.020 shall be punishable, as follows:
   1. If the excess weight is one pound to two thousand five hundred (2,500) pounds the violation shall be a Class 2 misdemeanor;
   2. If the excess weight is two thousand five hundred one (2,501) pounds or more the violation shall be a Class 1 misdemeanor.
C. Except as otherwise provided by law, a person who violates either Section 10.16.010 or 10.16.020 a second time within one year shall be subject to the following penalties:
   1. Guilty of a Class 1 misdemeanor for a second conviction for a violation of either of Section 10.16.010 or 10.16.020 within one year;
   2. In addition to any term of imprisonment that a court may impose for a second or subsequent violation within one year, a court shall fine a person in accordance with the amounts set forth in the following table:

      Subsequent Violation Penalty Table

      The minimum fine shall be:
      If the excess weight is: Class 1

1,000 to 1,500 lbs	$	500.00
1,501 to 2,500 lbs	$	800.00
2,501 to 3,000 lbs	$	1,000.00
3,001 to 4,000 lbs	$	1,500.00
4,001 and over lbs	$	2,000.00

D. Restitution. At the time of sentencing, the court shall hear evidence concerning the issue of restitution to any public or private owner of a road or other property which has been damaged by a person who is found guilty of having violated either Section 10.16.010 or 10.16.020 and shall award restitution in an amount sufficient to fully compensate any person who suffered economic loss caused by the defendant's conduct in accordance with Arizona Revised Statutes, Title 13, Chapter 8, as amended. (Ord. 119 § 1 (part), 1997: prior code § 12-4-9)

Chapter 10.20

COMPRESSION OR ENGINE BRAKES

Sections:

10.20.010 Prohibited activities.
10.20.020 Penalty.

10.20.010 Prohibited activities

The operation of a motor vehicle on any street or highway within the town limits with the assistance of an engine brake or similar device.

10.20.020 Penalty.

Any person who violates any provision of this ordinance may be guilty of a misdemeanor.

11. RESERVED

Title 11

(RESERVED)

Chapter	Title	Page

12. STREETS, SIDEWALKS AND PUBLIC PLACES

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

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Chapter 12.04

EXCAVATIONS

Sections:

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12.04.030 Permit contents and requirements.
12.04.040 Application requirements.
12.04.050 Exemptions.
12.04.060 Hold harmless agreement.
12.04.070 Violation—Penalty.

12.04.010 Permit required.

It is unlawful for any person or entity to grade, pave, fill or level any street, alley or right-of-way within the town, or to construct, alter or repair therein any pavement, sidewalk, utility structure, crosswalk, curb, driveway, gutter, sewer, water main or other structure or to make therein any excavation or in any manner disturb or obstruct the same or alter the same or place improvements on the same without first obtaining a permit in writing to do so from the city clerk. (Ord. 47 § 1, 1978: prior code § 8-4 (part))

12.04.020 Permit application fee.

There is established a fee of two dollars ($2.00) which shall accompany the application for permit for paving or excavating of town property. (Ord. 47 § 2, 1978: prior code § 8-4 (part))

12.04.030 Permit contents and requirements.

The permit shall require that the person to whom the same is issued shall give the town clerk no less than twenty-four (24) hours notice of the commencement of such work, shall carry on such work to the satisfaction and subject to the approval of the public works director of the town, shall diligently prosecute the same to completion, shall leave the street, alley or right-of-way in a good and safe condition, shall at all times keep signal lights or other proper warning as may be necessary to prevent injury to persons or property, and such person shall comply with such additional reasonable provisions and conditions as may be prescribed by the public works director either on the permit or as required from time to time. (Ord. 47 § 3, 1978: prior code § 8-4 (part))

12.04.040 Application requirements.

The town clerk shall prescribe and provide a regular form of application for purposes of this chapter. The application shall require such information and details as the town clerk shall deem necessary to establish the exact location, nature, dimensions, duration and purpose of the applicant in the project upon the street, alley or right-of-way. The application shall be accompanied by a map,

sketch, diagram or exhibit which provide this information. The applicant shall at all times comply with all state and federal laws, local ordinances and regulations which in any manner affect the permit, as well as any rules and regulations as the town may require. (Ord. 47 § 4, 1978: prior code § 8-4 (part))

12.04.050 Exemptions.

Excepted from the requirements of this chapter are ordinary and common maintenance for franchised utilities. However major operations or improvements of utilities shall require permits hereunder. (Ord. 47 § 5, 1978: prior code § 8-4 (part))

12.04.060 Hold harmless agreement.

The town shall not be liable or responsible for any acts or damage that may occur in the performance of any work by the holder of a permit, and the issuance of a permit by the town shall be deemed an agreement on the part of the permittee to indemnify the town and hold it harmless against any and all liability, loss, cost, damage or expense which may occur to the town because of the negligence or misconduct in the performance of any work by the permittee. (Ord. 47 § 7, 1978: prior code § 8-4 (part))

12.04.070 Violation—Penalty.

Any person or entity found guilty of violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and punishable by confinement in jail for not more than three months, by payment of a fine not to exceed three hundred dollars ($300.00) or both. (Ord. 47 § 6, 1978: prior code § 8-4 (part))

Chapter 12.08

PARK AND RECREATION AREAS

Sections:

12.08.010 Purpose.
12.08.020 Applicability.
12.08.030 Construction and interpretation.
12.08.040 Definitions.
12.08.050 Structures, plants, trees, earth and rubbish.
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12.08.160 Regulated activities.
12.08.170 Permits.
12.08.180 Enforcement.
12.08.190 Violation—Penalty.

12.08.010 Purpose.

The purpose of this chapter is to provide rules and regulations for the use of and conduct in the parks and recreation areas of the town. (Ord. 65 § 1, 1984: prior code § 11-3-1)

12.08.020 Applicability.

This chapter shall apply in all parks and recreation areas under the jurisdiction of the town, unless expressly exempted, For the issuance of permits, temporary designations, authorizations, granting of approval and other actions, the approving governing agency shall be the council of the town of Springerville. (Ord. 65 § 2, 1984: prior code § 11-3-2)

12.08.030 Construction and interpretation.

In the interpretation of this chapter and all succeeding park and recreation area ordinances, the provisions shall be construed as follows:

A. Any requirement or prohibitions of any act, shall respectively extend to and include the causing and procuring, directly or indirectly, of such act.
B. No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the town in line of duty or work as such, or by any person, his or her agent or employees, in the proper and necessary execution of the terms of any agreement with the town.

C. Any act otherwise prohibited by law or local ordinance shall be lawful if performed under, by virtue of, and strictly within the provisions of a permit to do so, and to the extent authorized thereby. (Ord. 65 § 3, 1984: prior code § 11-3-3)

12.08.040 Definitions.

In this chapter unless the context otherwise requires:

"Animals" mean cats, dogs, horses, any fowl or birds and any living creatures within the jurisdiction of the park or recreation area.

"Approving governing agency" means the council of the town of Springerville, any body appointed thereby or any designee thereof.

"Crossing" means any crossing, whether marked by a pavement or otherwise; the extension of any sidewalk or space across any intersecting drive, street or highway.

"Curb" means any boundary of any street, road, avenue, boulevard or drive whether or not marked by a curb.

"Director" means the mayor of the town of Springerville or other employee, designee or other person appointed by the council as the person in charge of the recreation areas within the town.

"Park attendant" means any person employed by the town as a parks attendant to perform duties or tasks within the park and recreation areas.

"Path" means any footpath, walk or any other path maintained for pedestrians.

"Pedestrians" means any person afoot.

"Permit" means any written license issued by or under the authority of the town permitting a special event or activity on park facilities.

"Person" means any natural person, corporation, company, association, joint stock association, firm or co-partnership.

"Soliciting" means selling goods or services by sample or taking orders for future delivery with or without accepting advance payment for the goods or seeking any form of contributions.

"Stopping or standing" means, when prohibited, any cessation of movement of a vehicle, occupied or not, except when necessary to avoid conflict with pedestrians or other traffic including bicycles or horses.

"Traffic" means pedestrians, ridden or herded animals and vehicles, either singly or together.

"Vehicle" means any conveyance (except baby carriages) including motor vehicles, trailers of all types, campers, tricycles, bicycles, motorized or not, sleds, sleighs, pushcarts or vehicles propelled by other than by muscular power, including any horse or horse-drawn conveyance.

"Vending" means selling or trading any item or service. (Ord. 65 § 4, 1984: prior code § 11-3-4)

12.08.050 Structures, plants, trees, earth and rubbish.

It is unlawful for any person in a public park or recreation area to:

A. Mark, deface, disfigure, injure, tamper with, displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials,

water lines or other public utilities or parts or appurtenances thereof, signs, notices, placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

B. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over six years of age shall use the restrooms and washrooms designated for the opposite sex;

C. Dig or remove any soil, rock, sand, stones, trees, shrubs, plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency;

D. Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except on special prior written permission issued pursuant to this chapter or other municipal ordinances;

E. Damage, cut, carve, mark, transplant or remove any plant, injure the bark, pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas or in any other way injure the natural beauty or usefulness of any area;

F. Climb, stand or sit upon any monuments, vases, planters, fountains, railings, fences, trees or upon any other property not designated or customarily used for such purpose;

G. Attach any rope, cable or other contrivance to any tree, fence, railing, bridge, bench or any other structure or improvement;

H. Throw, discharge or otherwise place or cause to be placed in the water of any fountain, pond, lake, stream or other body of water in or adjacent to any park, or any tributary, stream, storm sewer or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters;

I. Take into, carry through or put into any park any rubbish, refuse, garbage or other material. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere;

J. Fail to dispose of any glass container in a proper receptacle or proper fashion;

K. Cause or permit to run loose any animal;

L. Tie or hitch any animal to any tree or plant;

M. Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw anything at any animal, wildlife, reptile or bird, nor shall he remove or have in his or her possession the young of any wild animal, or the eggs, nest or young of any reptile or bird. Exception to the foregoing is made in that snakes known to be deadly poisonous may be killed on sight;

N. Ride a horse, except on designated bridle trails. Horses shall be thoroughly broken and properly restrained, ridden with due care and shall not be allowed to graze or go unattended;

O. Walk a dog or other domestic animal without a leash, said leash to be no longer than six feet. Further, the owner or person having custody of the dog

or other domestic animal shall be responsible for removal of any animal solid waste. (Ord. 65 § 5, 1984: prior code § 11-3-5)

12.08.060 Vehicles.

It is unlawful for any person in a public park or recreation area to:

A. Drive any vehicle in any area except the surfaced park roads or parking areas, or such areas as may, on occasion, be specifically designated a temporary area;
B. Park a vehicle anywhere except in a designated parking area;
C. Leave a vehicle standing or parked in established parking areas, or elsewhere in the park and recreation areas during hours when the park and recreation area is closed. During a snow storm and for seventy-two (72) hours after the conclusion thereof, established parking areas in parks and recreation areas may be utilized for parking, but not by travel trailers, motor homes or any other form of living facility;
D. Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available;
E. Ride a bicycle without reasonable regard to the safety of others;
F. Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by it;
G. Wash any vehicle;
H. Drive or operate within the parks any bus or vehicle adapted for more than twelve (12) passengers, any hearse, truck, tractor or vehicle used for advertising; provided that taxis, buses and trucks may be used to carry visitors to the parks and recreation areas;
I. Use the parks, park drives, parking places or parkways for the purpose of demonstrating any vehicles, or for the purpose of instructing another to drive or operate any vehicle, nor shall any person use any park area, including parking places, for the repairing or cleaning of any vehicle, except in an emergency;
J. Cause or permit a vehicle in tow of another vehicle to enter the parks or proceed therein, except that in the case of a breakdown a disabled vehicle may be towed to the nearest exit; or to operate or drive a vehicle containing any person or object projecting or hanging outside of or beyond the side or the rear thereof. (Ord. 65 § 6, 1984: prior code § 11-3-6)

12.08.070 Firearms, weapons and tools.

It is unlawful for any person to bring into or have in his or her possession in any park or recreation area:

A. Any pistol, revolver or objects upon which loaded or blank cartridges may be used. Official starters, at authorized athletic events, are excepted from this restriction;
B. Any burglar tools;
C. Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow or other weapon in which the propelling force is gunpowder, a spring or air. (Ord. 65 § 7, 1984: prior code § 11-3-7)

12.08.080 Explosives and fireworks.
It is unlawful for any person to have in his or her possession or set off any explosives or fireworks. Permits may be given for conducting a properly supervised fireworks display in designated park areas. (Ord. 65 § 8, 1984: prior code § 11-3-8)

12.08.090 Advertising, assemblages and entertainment.
A. No person shall post, paint, affix, distribute, deliver, place, cast or leave about any bill, billboard, placard, ticket, handbill, circular or advertisement.
B. No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the town:
   1. Display any advertising signs or other advertising matter, provided that a sign attached to a vehicle to identify the vehicle, or a sign lawfully on a taxi or bus, is not prohibited;
   2. Operate for advertising purposes any musical instrument, soundtrack or drum;
   3. Hold public assemblages;
   4. Conduct exhibitions; or
   5. Hold a parade. (Ord. 65 § 9, 1984: prior code § 11-3-9)

12.08.100 Merchandise sale prohibited.
No person shall expose or offer for sale any article in any park or recreation area without a license as a concessionaire. (Ord. 65 § 10, 1984: prior code § 11-3-10)

12.08.110 Ignitable and combustible materials.
No person shall kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent person from the time that it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under any tree or in underbrush. (Ord. 65 § 11, 1984: prior code § 11-3-11)

12.08.120 Controlled dangerous substances, alms and gambling.
While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and, in particular, no person shall:
A. Bring controlled dangerous substances or use the same at any time, nor shall any person be under the influence of intoxicating liquor or a controlled dangerous substance in a park or recreation area;
B. Solicit alms or contributions for any purpose, whether public or private;
C. Play any games of chance or have possession of any instrument or device for gambling;
D. Play, engage or take part in any game or competitive sport for money or other valuable thing without a written permit. (Ord. 65 § 12, 1984: prior code § 11-3-12)

12.08.130 Miscellaneous conduct.

It is unlawful for any person in a park or recreation area to:

A. Camp or stay overnight anywhere except in areas designated for camping or staying overnight in vehicles or trailers;
B. Take part in the playing of games involving thrown or otherwise propelled objects except in those areas designated for such forms of recreation;
C. Play football, baseball, basketball, soccer or lacrosse, except in areas designated for such games;
D. Rollerskate or use skateboards except in those areas specifically designed for such pastimes;
E. Enter an area posted as “closed to the public”;
F. Engage in threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to breach the public peace;
G. Fail to produce and exhibit any permit he or she claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with this chapter, any ordinance or rule;
H. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit;
I. Erect or occupy any tent, stand or other structure in any park or playground, or sell or give away from any such tent, stand or other structure any food, drink or other thing, without a permit;
J. Bring glass beverage containers thereon. (Ord. 73 § 1, 1985; Ord. 65 § 13, 1984: prior code § 11-3-13)

12.08.140 Picnic areas.

It is unlawful for any person or group of persons to hold a picnic in any park area, except in areas set aside or specifically designated as picnic areas. A permit must be secured for any picnic with more than twenty (20) participants. (Ord. 65 § 14, 1984: prior code § 11-3-14)

12.08.150 Hours.

A. Except for designated camping areas, no person shall be in any park during the hours the park is closed. During the months of May, June, July, August and September all parks in the town limits shall open at seven a.m. and shall close at eleven p.m. During all other months all the parks in the town limits shall open at eight a.m. and shall close at nine p.m. Closing hours shall be posted at all parks.
B. Special use permits may be obtained at the offices of the town for the purpose of permitting use of the parks within the town limits during hours when the parks would otherwise be closed. (Ord. 65 § 15, 1984: prior code § 11-3-15)

12.08.160 Regulated activities.

The following activities are permitted only at the times and in the areas so designated for that purpose, and are prohibited elsewhere within the parks:

A. Swimming, bathing, wading and fishing;

B. Ice skating, sledding and skiing;
C. Model airplane flying;
D. Baseball;
E. Archery;
F. Horseshoe pitching;
G. Tennis;
H. Picnicking;
I. Camping;
J. Football and track;
K. Basketball;
L. Soccer;
M. Bicycle riding;
N. Throwing or propelling any objects; and
O. Rollerskating. (Ord. 65 § 16, 1984: prior code § 11-3-16)

12.08.170 Permits.

A. Application.
Permits for special events in parks and recreation areas shall be obtained by application to the council or their designee in accord with the following procedure:
1. A person seeking issuance of a permit hereunder shall file an application stating:
   a. The name and address of the applicant;
   b. The name and address of the person, persons, corporation or association sponsoring the activity, if any;
   c. The day and hours for which the permit is desired;
   d. The park, or portion thereof, for which the permit is desired;
   e. Any other information reasonably necessary to permit a determination as to whether a permit should be issued hereunder; and
   f. Variances required from park rules and regulations.
2. Standards for issuance of a permit shall include the following findings that the:
   a. Proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park;
   b. Proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
   c. Proposed activity or use that is reasonably anticipated will not include violence, crime or disorderly conduct;
   d. Proposed activity or use will not entail extraordinary or burdensome expense or police operation by the town; and
   e. Facilities desired have not been reserved for other uses on the date and at the hours requested in the application.

B. Appeal.
1. Within ten days after the receipt of an application, the council, or its designee, shall inform the applicant of its decision, in writing, to grant or

deny a permit; in the event of a denial, the notification shall include the reason therefore. Any aggrieved person shall have the right to appeal to the entire council by serving written notice thereof on the clerk within five business days after receipt of notification of denial.

2. A copy of the appeal notice shall also be served on the body or person that denied the permit application, if other than the council, within the same time limit, and the body or person shall immediately forward the application and the reasons for its denial to the council. The council shall decide within ten days from the receipt of the appeal by the clerk, or at the first meeting of the council after such receipt by the clerk, whichever is later. The decision of the council shall be final and binding on all parties.

C. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permit.

D. An applicant for a permit may be required to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined prior to the commencement of any activity or the issuance of any permit.

E. Revocation. The council shall have the authority to revoke a permit upon a finding of a violation of any rule, ordinance or upon good cause shown. (Ord. 65 § 17, 1984: prior code § 11-3-17)

12.08.180 Enforcement.

A. The police department of the town, their designees, if any, the council, their designees, if any, and any park attendants, shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

B. The police department of the town, their designees, if any, the council, their designees, if any, and any park attendants shall have the authority to order any person or persons acting in violation of this chapter to leave the park or recreation areas. (Ord. 65 § 20, 1984: prior code § 11-3-18)

12.08.190 Violation—Penalty.

Any person, firm or corporation violating any provision of this chapter shall be guilty of a Class 1 misdemeanor. (Ord. 65 § 21, 1984: prior code § 11-3-19)

Chapter 12.12

SPRINGERVILLE MUNICIPAL AIRPORT

Sections:

12.12.010 Use of airport runway.

12.12.010 Use of airport runway.

The use of the airport runway and taxi strips of the town of Springerville Municipal Airport by any vehicle, except airplanes and any other vehicles authorized by the town, is hereby prohibited. (Prior code § 12-2-3)

Chapter 12.16

SPRINGERVILLE CEMETERY

Sections:

12.16.010 Cemetery regulations.

12.16.010 Cemetery regulations.

A. No person shall open or close a grave in the Springerville Cemetery except as herein provided.

B. The opening and closing of graves in the Springerville Cemetery shall be accomplished and performed under the direction and supervision of the town or its duly authorized agent or employee. The fee for opening and closing the grave is seventy-five dollars ($75.00).

C. The council may from time to time designate such persons as they deem necessary to authorize and supervise the opening and closing of graves.

D. The council may sell lots in the Springerville Cemetery to individuals or families and may set and establish the purchase price to be paid for such lots. The fee for the reservation of a gravesite is fifty dollars ($50.00).

E. It is unlawful for any person to deface, mar or otherwise disturb any grave or marker, or to dump any trash or other refuse, or otherwise litter the grounds of the Springerville Cemetery. (Ord. 77 § C, 1986; prior code § 14-1)

13. PUBLIC SERVICES

Title 13

PUBLIC SERVICES

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Chapter 13.04

WATER AND SEWER SERVICE SYSTEM GENERALLY

Sections:

13.04.010 Management of water and sewer systems.
13.04.020 Receipts and deposits.
13.04.030 Application for water and sewer service.
13.04.040 Deposit.
13.04.050 Discontinuance of service.

13.04.010 Management of water and sewer systems.

The council shall have the immediate control and management of all things pertaining to the town water and sewer systems and shall perform, or cause to be performed, all acts that may be necessary for the prudent, efficient and economical management and protection of the water and sewer systems. The council shall have the power to prescribe such other and further rates, rules and regulations as it may deem necessary. (Prior code § 13-1-1)

13.04.020 Receipts and deposits.

The clerk shall keep a correct account of all receipts, make out all bills for water and sewer rents and materials furnished to consumers, collect the same, and deposit the proceeds so collected to the credit of the town, and in accordance with the direction of the council. (Prior code § 13-1-2)

13.04.030 Application for water and sewer service.

Application for the use of water and sewer service shall be made in person, at the town hall, to the clerk by the owner or agent of the property to be benefited, designating the location of the property and stating the purpose for which the water and sewer may be required.

A. Grounds for Rejection of Application. The town may reject any application for water and sewer service for any good and sufficient reasons including the following: service not available under a standard rate, service which involves excessive service expense, service which may affect the service to other consumers, service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location.
B. Violation of Application Provisions. For violation of any of the provisions relating to application for service, the town shall, at the expiration of seven days after mailing written notice to the last known address of the consumer, at its option, remove the meter and discontinue service. Where the meter is thereafter reinstalled, the consumer shall first pay to the town a reinstallation charge of five dollars ($5.00). (Prior code §§ 13-2-1—13-2-3)

13.04.040 Deposit.

A. Deposit Required. A deposit shall be charged for water and sewer service before such service commences to all applicants who apply for water and

sewer service. The minimum amount of the deposit shall be five dollars ($5.00) for consumers within the corporate limits and ten dollars ($10.00) for consumers outside the corporate limits; or, at the option of the clerk, an amount equal to not less than twice the estimated amount of the monthly bill; provided, that in no case where a deposit is required shall the amount of the deposit be less than the minimum amount. Deposits shall be non-interest bearing and shall be refunded to the consumer upon discontinuance of service and payment of charges, provided that the charges may be deducted from the deposit before the refund is made.

B. Payment Responsibility. The individual in whose name the deposit is made shall be responsible for payment of all bills incurred in connection with the service furnished. (Prior code §§ 13-3-1, 13-3-2)

13.04.050 Discontinuance of service.

A. Notice Required. Any person who desires to discontinue the use of water and sewer service shall file written notice with the clerk at least three days in advance of intended termination of service. Responsibility for water and sewer service consumed extends to the time of departure or to the time specified for departure, whichever occurs last.

B. Service May Be Discontinued Under Certain Conditions. The town may discontinue water and sewer service upon any of the following conditions:
   1. To prevent fraud or abuse;
   2. Disregard of town rules pertaining to water and sewer service;
   3. Emergency repairs;
   4. Insufficient supply caused by factors outside the control of the town;
   5. Legal process;
   6. Direction of public authorities;
   7. Local emergency requiring emergency measures;
   8. Tampering with meter or other equipment by the consumer. (Prior code §§ 13-4-1, 13-4-2)

Chapter 13.08

WATER AND SEWER RATES AND CHARGES

Sections:

13.08.010 Water rates.
13.08.020 Sewer rates.
13.08.030 Minimum rate.
13.08.040 Water and sewer bills.
13.08.050 Incorrect bill.
13.08.060 Turn ons.
13.08.070 Unoccupied units liable.
13.08.080 Commencement of charges.
13.08.090 Late charges.

13.08.010 Water rates.

All water sold by the town shall be sold at rates to be determined by the council by resolution duly enacted, and shall provide a minimum charge both inside and outside the corporate limits and a charge per thousand gallons above the minimum charge. (Ord. 42 § 1 (part), 1974: prior code § 13-5-1)

13.08.020 Sewer rates.

Monthly charges for sewer service shall be at rates to be determined by the council by resolution duly enacted, and may provide for different rates duly enacted, and may provide for different rates depending upon the type of connection. (Ord. 42 § 1 (part), 1974: Ord. 41A § 1 (part), 1973: prior code § 13-5-2)

13.08.030 Minimum rate.

Service for a time period less than a month shall be charged at the minimum monthly rate. (Prior code § 13-5-3)

13.08.040 Water and sewer bills.

Water meters shall be read on the twentieth day of each month, as nearly as possible, and a separate bill shall be rendered for each meter and mailed on the first day of each succeeding month. All bills shall include sewer charges, when applicable, and such other charges for other town services as may be authorized by the council. Bills shall be due on or before the fifteenth day of the month following the reading of the meter and shall become delinquent after fifteen (15) days following billing date. Service may be discontinued after thirty (30) days following billing date, and the town reserves the right to vary the dates or length of billing period, temporarily or permanently, if necessary or desirable. (Prior code § 13-5-4)

13.08.050 Incorrect bill.

Any consumer may present a claim to the town if he or she believes that he or she may have received an incorrect bill. Such claim shall be presented in person at the town hall before such bill becomes delinquent, provided that the consumer may make a claim following payment of his or her bill and his or her payment shall not prejudice his or her claim. Such claim shall not exempt the consumer from delinquency penalties if he or she fails to pay his bill on time. (Prior code § 13-5-5)

13.08.060 Turn ons.
A charge of five dollars ($5.00) shall be made for each turn on of water service for reasons other than change of occupancy. (Prior code § 13-5-6)

13.08.070 Unoccupied units liable.
The above minimum charges for additional units or trailer spaces shall apply regardless of whether the unit or trailer space is occupied or unoccupied. (Prior code § 13-5-7)

13.08.080 Commencement of charges.
The town shall commence service charges for a consumer when the water meter is installed and the water or sewer connection is made, regardless of whether the water or the sewer service is used or not. (Prior code § 13-5-8)

13.08.090 Late charges.
The town council shall set late fees for water and sewer bills which are overdue or delinquent as set forth in Section 13.08.040. (Ord. 94 § 1, 1988: prior code § 13-5-9)

Chapter 13.12

WATER METERS

Sections:

13.12.010 Meters to be used.
13.12.020 Suitable placement.
13.12.030 Single meter.
13.12.040 Grouping of meters.
13.12.050 Water meter installation fee schedule.
13.12.060 Water meter failure.
13.12.070 Interference by dogs.
13.12.080 Special meter reading.
13.12.090 Meter tests.

13.12.010 Meters to be used.

All water sold by the town shall be metered by meters which shall be owned and kept in repair by the town. (Prior code § 13-6-1)

13.12.020 Suitable placement.

The town may install a water meter on the property line or on the consumer's property in such location as deemed necessary and which is conveniently accessible by a meter reader. (Prior code § 13-6-2)

13.12.030 Single meter.

Pipes and equipment for water and sewer service belonging to the consumer shall be so arranged to permit the placing of a single water meter and a single sewer connection for that property convenient to the town. If the pipes and equipment belonging to the consumer are not arranged to permit such placement of a meter and sewer connection, and additional meters or connections are required, each such additional meter or connection shall be considered as an additional account and shall be so billed. (Prior code § 13-6-3)

13.12.040 Grouping of meters.

When two or more meters are installed on the same premises for different consumers, they shall be closely grouped and each meter shall be clearly marked as to the consumer to whom it belongs. (Prior code § 13-6-4)

13.12.050 Water meter installation fee schedule.

Fees for water meter installations shall be at rates to be determined by the council by resolution duly enacted, and may provide for different rates for different size meters. (Ord 42 § 1 (part), 1974: Ord. 41A § 1 (part), 1973: prior code § 13-6-5)

13.12.060 Water meter failure.

If a water meter fails to operate and a reading cannot be taken a bill will be made by the town in an amount based on the average monthly billing of the previous three months. (Prior code § 13-6-6)

13.12.070 Interference by dogs.

In the event any dog kept on the premises interferes with meter reading by an employee of the town and the meter is not read, a billing will be made by the town in an amount based on the average monthly billing of the previous three months. (Prior code § 13-6-7)

13.12.080 Special meter reading.

Any consumer may request and have the town perform a special reading of his or her water meter upon the payment of a one dollar ($1.00) deposit. If the special reading indicates that the regular meter reading was incorrect, then such deposit shall be returned to the consumer, otherwise, such deposit shall be retained by the town as a charge for the special meter reading. (Prior code § 13-6-8)

13.12.090 Meter tests.

Any consumer may, upon written application accompanied by a deposit of two dollars and fifty cents ($2.50), have his or her meter tested for accuracy by the town. If the meter registers a divergence from accuracy greater than three percent, the deposit shall be refunded to the applicant and the indicated adjustment made in the water service charges for a total period not longer than the then current period and the monthly period immediately preceding. If a meter so tested registers within three percent of accuracy, the deposit shall be retained by the town as a fee to pay the cost of such test. All inaccurate and defective meters shall be replaced by the town immediately when detected. (Prior code § 13-6-9)

Chapter 13.16

SEWER SYSTEM USE REGULATIONS

Sections:

13.16.010 Installation of sewer connection.
13.16.020 Unsanitary disposal of excrement prohibited.
13.16.030 Private sewage systems.
13.16.040 Permit required.
13.16.050 Prohibited substances.
13.16.060 Grease, oil and sand interceptors—Flammable substances.
13.16.070 Backwater valves.

13.16.010 Installation of sewer connection.

A. The installation of a sewer connection from the town sewer system to a residence or business as provided by this chapter is not mandatory and shall be performed by the town only at the written request of the owner or agent of such residence or business.

B. Acceptance of such application shall be dependent upon the availability of town sewer lines to the property of the applicant. If such sewer lines, in conformance with such specifications as may be adopted by the council, are available to the applicant, then the town shall, in conformance with the provisions of this chapter, connect the residence or business of the applicant to the town sewer lines at a charge to be determined by the council by resolution duly enacted, which may provide for different rates for business and residential installations and for additional hookups at the same location. (Ord. 42 § 1 (part), 1974: Ord. 41A § 1 (part), 1973: prior code §13-7-1)

13.16.020 Unsanitary disposal of excrement prohibited.

It is 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. (Prior code § 13-7-2)

13.16.030 Private sewage systems.

A. Except as provided in this chapter it is 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. Where a public sanitary or combined sewer is not available within the town, or in any area under the jurisdiction of the town, the building sewer shall be connected to a private sewage disposal system, complying with the provisions and recommendations of the Arizona State Department of Public Health. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner. (Prior code § 13-7-3)

13.16.040 Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town. (Prior code § 13-7-4)

13.16.050 Prohibited substances.

A. Definitions.

"Garbage" means solid wastes from the preparation, cooking and dispensing of food from the handling, storage and sale of produce.

"Industrial wastes" means the liquid wastes from industrial processes as distinct from sanitary sewage.

"Properly shredded garbage" means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-fourth of an inch in any dimension.

B. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

C. No person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewer:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit;
2. Any water or waste which may contain more than fifty (50) parts per million by weight of fat, oil or grease;
3. Any gasoline, benzene, naptha, 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 and grits such as brick, cement, onyx, carbide, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system;
6. Any waters or wastes having any corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage system;
7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with the sewer system or constitute a hazard to humans or animals;
8. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials in the sewer system;
9. Any noxious or malodorous gas or substance capable of creating a public nuisance. (Prior code § 13-7-5)

13.16.060 Grease, oil and sand interceptors—Flammable substances.

A. Commercial Users. Commercial users of the town sewer system shall install grease, oil and sand interceptors in compliance with the Uniform Plumbing Code when, in the opinion of the director of public works or the town manager, such interceptors are necessary for the proper handling of sewerage and waste water containing grease, oil and sand. All interceptor units shall be of a type and capacity approved by the town and shall be located for easy accessibility for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the commercial user at the user's expense.
B. Restaurants, Gasoline Stations, Etc. All restaurants, gasoline stations, automotive repair shops and any other commercial users or businesses that knowingly discharge grease, oil and sand into the town sewer system shall comply with the requirements of subsection A of this section on or before June 1, 1997.
C. Gas Detection Meters. Commercial and residential users of the sewer system who discharge flammable substances into the town sewer system shall install and maintain a combustible gas detection meter of a type approved by the town on or before June 1, 1997.
D. Inspections. Interceptors or gas detection meters required by this section may be inspected without notice Monday through Friday between seven a.m. and five p.m. and during the user's normal business hours. In addition, any records required to be kept by a user pursuant to this section may be inspected during the same hours by the town.
E. Public Nuisance. Violation of this section by discharging grease, oil, sand or flammable substances into the town sewer system is declared to be a public nuisance.
F. Notice of Violation. Any person or business including both commercial and resident users of the town sewer system, who are found to be in violation of this section shall be given written notice that this section has been violated; and that failure to correct the violation within twenty (20) days shall result in a civil citation for violation of the section. All such notices of violation of this section and any civil citations given to such violators shall be in writing and shall be in the form designated by the town of Springerville chief of police.
G. Civil Penalty. Upon a finding that a person or business is responsible for failing to correct a public nuisance as defined in this section, or of violating subsections A, B, C or D of this section; such person or business shall be subject to a civil penalty of not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) for a first offense. Second and subsequent offenses shall subject a violator to a civil penalty not to exceed five hundred dollars ($500.00).
H. Restitution. In addition to any other civil penalty set forth in this section, a person or business who violates this section shall pay restitution equal to any economic loss to any person, business, the town or any other entity caused by or relating to the discharge of grease, oil, sand or flammable substances, including the costs of abating the public nuisance.

I. Abatement. Any building from which grease, oil, sand or flammable substances are discharged into the town sewer system for a period of thirty (30) days after a notice of violation has been given shall be considered dangerously unsafe and detrimental to the public health, safety and welfare and may be abated by order of a court of competent jurisdiction or by the common council of the town of Springerville. Such abatement may be accomplished by:
   1. Locking the building, vacating the building and not allowing entry into or use of the building by any person until the illegal discharge of substances into the sewer system can be corrected;
   2. Limited use of the building which limited use shall not allow any use of or discharge into the sewer system until the illegal discharge of substances into the sewer system can be corrected;
   3. Limited use of the building including limited use of the sewer system which limited use shall prohibit discharge of any prohibited substances into the sewer system until the problem is corrected;
   4. Such other abatement as the court or the common council deems just and proper in the circumstances. (Ord. 109 § 2, 1995: prior code § 13-7-6)

13.16.070 Backwater valves.

An approved backwater valve shall be installed when the finished floor elevation (FFE) of a connected residential or commercial unit is one foot or less above the nearest upstream manhole or cleanout rim elevation. If the involved public mainline incorporates thirty (30) inch manhole covers, the elevation criteria is increased to eighteen (18) inches. A self-explanatory tabulated numerical listing of lots requiring backwater valves shall appear on the any plans required by Title 15 of this code. The backwater valve shall not be installed within the public right-of-way or sewer easements. (Ord. 93 § 1, 1988: prior code § 13-7-7)

Chapter 13.20

CONSUMER RESPONSIBILITIES AND LIABILITIES

Sections:

13.20.010 Consumer water and sewer facilities.
13.20.020 Consumer negligence.
13.20.030 Right of way.
13.20.040 Installation of lines.
13.20.050 Protection of town property.
13.20.060 Supplying water to others prohibited.
13.20.070 Commercial use.
13.20.080 Sprinkling restrictions.
13.20.090 Waste of water prohibited.
13.20.100 Inspections.
13.20.110 Interruption of service.
13.20.120 Liability limited.
13.20.130 Regulations part of contract.

13.20.010 Consumer water and sewer facilities.

The consumer shall have complete responsibility for the installation and maintenance of adequate water and sewer facilities on the premises and the town shall not in any way be responsible for the installation, maintenance, inspection or damage of such facilities or damage caused by any defect in such facilities on the consumer's premises. Such facilities shall be maintained by the consumer in full compliance with any and all rules and regulations of the town in addition to applicable state statutes. (Prior code § 13-8-1)

13.20.020 Consumer negligence.

Any damage to the town water and sewer system or injury to town employees caused by the negligence of any consumer and which requires any repairs, replacements or damages, the cost of such shall be added to that consumer's bill, and if such charges are not paid, water and sewer service may be discontinued. (Prior code § 13-8-2)

13.20.030 Right of way.

Each consumer shall provide to the town such easement and right of way as is necessary to provide water and sewer service to that consumer. (Prior code § 13-8-3)

13.20.040 Installation of lines.

The town may refuse to provide service unless the lines or piping are installed on the premises so as to prevent cross-connections or backflow. (Prior code § 13-8-4)

13.20.050 Protection of town property.

The consumer shall guarantee proper protection for town property placed on his premises and shall permit access to it only to authorized representatives of the town. (Prior code § 13-8-5)

13.20.060 Supplying water to others prohibited.
No occupant or owner of any building into which water is introduced will be allowed to supply water to other persons or families or for use on any other property. The town reserves the right to shut off the supply for abuses of water privileges. (Prior code § 13-8-6)

13.20.070 Commercial use.
Any water service for commercial use shall not be included in a residential service account and shall have a separate meter and connection. (Prior code § 13-8-7)

13.20.080 Sprinkling restrictions.
In case of water shortage or scarcity, the council may by resolution place any restrictions which it deems necessary upon the use of water for irrigation or sprinkling purposes. (Prior code § 13-8-8)

13.20.090 Waste of water prohibited.
Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. All water outlets, including those used in conjunction with hydrants, urinals, water closets, bathtubs and other fixtures, must not be left running for any purpose other than the use for which they were intended. In addition to the penalty provided herein for code violations, the water supply may be turned off where any such waste occurs. (Prior code § 13-8-9)

13.20.100 Inspections.
Whenever in the judgment of the council it is deemed necessary, it may provide for the inspection of the premises or buildings of any water or sewer consumer for the purpose of examining the condition of all pipes, motors, meters and fixtures, or the manner in which such facilities are used. (Prior code § 13-8-10)

13.20.110 Interruption of service.
The town shall notify the consumer in advance of any anticipated interruption of service when such advance notice is possible. The town shall not be responsible for any interruption of water and sewer service caused by forces beyond its control. (Prior code § 13-9-1)

13.20.120 Liability limited.
No liability shall attach to the town for any injury or damages that may result from turning on or shutting off the water in any main, service connection, or pipe; or the restriction of use or discontinuance of any water and 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, in any respect, for the condition, defects, failure or

use of any pipe, connection, fixture or appurtenance, not belonging to the town, on any premises, or for loss or damage resulting therefrom. (Prior code § 13-9-2)

13.20.130 Regulations part of contract.

All regulations contained in this chapter shall be considered a part of the contract of every resident of the town taking water and sewer service from the town, and such resident taking water and sewer service shall be considered as having expressly consented to be bound thereby. Consumers outside the town limits, shall, upon application for water and sewer service, be required to sign a statement agreeing to the regulations set forth in this chapter. (Prior code § 13-10)

Chapter 13.24

CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION

Sections:

13.24.010 Purpose of Article.
13.24.020 Policy of Article.
13.24.030 Application of Article.
13.24.040 Definitions.
13.24.050 Where Backflow Prevention is Required.
13.24.060 Type of Assembly Required.
13.24.070 Backflow Prevention, Assembly Installation, maintenance and Repair.
13.24.080 Permits.
13.24.090 Inspections and Site Surveys.
13.24.100 Testing.
13.24.110 Notice of Discontinuation of Service.
13.24.120 Termination of Water Service.
13.24.130 Records.
13.24.140 Prohibited Acts.
13.24.150 Limitation of Liability.
13.24.160 Fees.
13.24.170 Availability of Standards.

13.24.010 Purpose of Article.

The purpose of this article is as follows:

A. To protect the public potable water supply system of the town from contamination or pollution by isolating, within the customer's water system, contaminants and pollutants which could backflow through the service connection into the public potable water supply system;
B. To provide for an ongoing program of cross-connection control which will prevent the contamination or pollution of the public water supply system; and
C. To comply with Arizona Department of Environmental Quality Backflow Prevention Regulations.

13.24.020 Policy of Article

A. Under this article, the customer is responsible for protecting the public water supply system from contamination due to backflow or backsiphonage of contaminants or pollutants through the customer's water service connection.
B. In furtherance of this policy:
   1. Section X-5.C requires a backflow prevention assembly to be installed, maintained, and tested by the customer, at the customer's expense, at each service connection to the premises whenever the structure connected to the potable water supply was constructed after December 31, 2001, except as otherwise required by law.

2. The town is undertaking a site inspection program to assist in identifying commercial and industrial customer locations connected to the public potable water system on or before December 31, 2001, where the town or its authorized representative may deem installation, maintenance and testing of a backflow prevention assemblies or other backflow prevention methodology as appropriate for the safety of the public water supply system.
3. Backflow prevention assemblies, devices or methods required by this article, including Sections X-5 and X-6 of this article shall be installed by the customer, at the customer's expense within the time period specified in the written notice, unless otherwise provided in this article or by law.
4. Backflow prevention assemblies, devices or methods required by this article shall be tested and maintained by the customer, at the customer's expense, to ensure operation thereof on a continuing basis.
5. The customer, at the customer's expense, shall retain records of installation, maintenance, testing and repairs, as required in Section X-13.
6. Failure or refusal on the part of the customer to install, maintain and test such backflow prevention assembly, device, or method, or to maintain records thereof as required by this article shall constitute grounds for discontinuing water service to the premises until such assembly, device or method has been so installed, maintained and tested.

C. This article does not limit the town's right to disconnect water service, with or without notice, as deemed appropriate by the town, to protect the public's health, safety or welfare.

13.24.030 Application of Article

This article shall apply to all premises served by the public potable water supply system of the town or to any other approved potable water supply of the town, including any private, auxiliary or emergency source. The provisions of this article shall not apply to single family residences unless a backflow, backsiphonage or cross-connection problem is identified at a particular residence by inspection or site survey or the residence is used to conduct a business enterprise or a hobby that utilizes water on site in such a way that it constitutes an actual or potential threat to the public water system.

13.24.040 Definitions

"Approved backflow prevention assembly" means a backflow prevention assembly of the size and type approved by the public works department as appropriate to protect the town's water supply from the degree of hazard presented by the customer's water system, that has completely met the laboratory and field performance specifications of the Foundation of Cross-Connection Control and Hydraulic Research of the University of Southern California as are published from time to time and, where on a fire system, has Underwriters Laboratory and Factory Mutual approval or listing, or as otherwise described, limited or provided in this article.

"Auxiliary water supply" means any water supply on or available to the premises other than the town's approved water distribution system. These auxiliary waters may include private wells, "used water" or "industrial fluids". Auxiliary water supplies not approved as a potable water supply by the town are hereby declared to be dangerous to health pursuant to Section X-6.

"Backflow" means the reversal of the flow of water or mixture of water and other liquids, gases or other substances into any part of the town's water distribution system.

"Backflow prevention assembly, device or method": A "backflow prevention assembly", or "assembly" means a testable device designed to prevent backflow. "Backflow prevention device" or "device" means a non-testable device designed to prevent backflow. "Backflow prevention method" or "method" means a non-testable physical construction designed to prevent backflow. The five types of assemblies, devices and methods include:

1. AIR-GAP. A non-testable method or construction whereby there exists an unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the vessel. An approved air-gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the overflow rim of the vessel and, in no case, less than one inch.
2. REDUCED PRESSURE PRINCIPLE ASSEMBLY. An assembly of two independently operating approved check valves with an automatically operating differential pressure relief valve between the two check valves, properly located test cocks for the testing of the check and relief valves, and tightly closing resilient seat shut off valves at both ends of the device. The entire assembly must have been manufactured in full compliance with ASSE Standard 1013 for reduced pressure principle assemblies. To be approved, these assemblies must be readily accessible for in-line maintenance and testing, and be installed in a location where no part of the assembly will be submerged. An acceptable method of handling discharge water from the assembly must be approved by the public works department.
3. DOUBLE CHECK VALVE ASSEMBLY. An assembly of two independently operating approved check valves with tightly closing resilient seat shut-off valves on each end of the check valve. The entire assembly must have been manufactured in full compliance with ASSE Standard 1015 for double check valve assemblies. To be approved, these assemblies must be readily accessible for in-line maintenance and testing, and have properly located test cocks for the testing of the check valves. This assembly shall only be used to protect against a non-health hazard.
4. DOUBLE CHECK-DETECTOR CHECK VALVE ASSEMBLY. A specially designed assembly composed of a line-size approved double check valve assembly with a low flow bypass line. Installed on the bypass line are a 5/8" x ¾" or ¾" water meter plus a ¾" approved double check valve assembly. The meter shall register low rates of flow. This assembly shall

only be used to protect against a non-health hazard. To be approved, these assemblies must be readily accessible for in-line maintenance and testing and have properly located test cocks for the testing of the check valves, plus a tightly closing resilient seat shutoff valve at each end of the double checks, and shall comply fully with ASSE Standard 1048.

5. PRESSURE VACUUM BREAKER ASSEMBLY. An assembly containing an independently operating check valve and an independently operating spring assisted air inlet valve located on the discharge side of the check valve. The assembly shall be equipped with properly located test cocks and tightly closing resilient shut off valves located at each end of the assembly, and shall comply with ASSE Standard 1020.
6. ATMOSPHERIC VACUUM BREAKER.
   a. A non-testable device containing a float check and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops the float falls, which opens the inlet port to allow air to enter, thereby preventing backsiphonage. All such devices will comply with ASSE Standard 1001.
   b. A shut off valve immediately upstream is allowed, but no valving of any kind downstream of the device is permitted. An atmospheric vacuum breaker is designed to protect against a health hazard under a backsiphonage condition only. This assembly is also known as the non-pressure-type vacuum breaker. The atmospheric vacuum breaker may not be utilized as sole, direct protection of a cross-connection that could otherwise pollute or contaminate the public water distribution system.

"Certified General Tester" means a person who holds a valid "General" tester certification issued by the California-Nevada American Water Works Association Section, the Arizona State Environmental Technical Training Center or other certifying authority approved by the Arizona Department of Environmental Quality.

"Commercial or Industrial Water Customer" means any non-residential water customer. Examples of such customers would include, but are not limited to: business enterprises of all sorts, government owned or operated buildings or properties, apartment buildings, hospitals and all irrigation sprinkler systems which have their own dedicated water service connection. Residential water users who conduct a business enterprise or any hobby at their home that utilizes water in such a way that it constitutes an actual or potential threat to the public water system are also defined as "commercial or industrial" water users.

"Customer" means the owner, official custodian or person in control of any premises supplied water service by or in any manner connected to the town's public potable water system. The town may deem any person or entity reflected in the town's records as the applicant for water service, the party responsible for paying the water bill or as the party paying the water bill as a customer for the purposes of this article.

"Cross-connection" means a cross-connection as defined in Section 104-M of the Uniform Plumbing Code as amended and as adopted by the town from time to time.

"Industrial fluids" means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutant or plumbing hazard if introduced into the town's water distribution system. This may include, but is not limited to: polluted or contaminated water; all types of process waters and "used waters" originating from the town's water distribution system which may have deteriorated in sanitary quality; chemicals in fluid form, plating acids and alkaline, circulated cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters; oils; gases; glycerin; paraffins; caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for fire-fighting purposes.

"Used water" means any water supplied by the town to a customer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the town.

13.24.050 Where backflow prevention is required

A. One or more approved backflow prevention assemblies or other backflow prevention methods approved by the public works department as appropriate to prevent contamination or pollution from entering the town's public water supply system shall be installed, maintained and tested by the customer, at the customer's expense, to ensure operation thereof on a continuing basis whenever the customer's system or equipment contains water or other substances of known, unknown or questionable quality that may contaminate, pollute or otherwise deteriorate the quality of the town's public potable water.

B. Approved backflow prevention assemblies shall also be installed by the customer, at the customer's expense, at every service connection where any of the following conditions exist:
   1. An auxiliary water system exists, unless the town has accepted such auxiliary water system as an additional potable water source and the source has received all necessary regulatory approvals for the use as a potable water supply by the town.
   2. Internal cross-connections exist that, in the judgment of the public works department, are not correctable, or intricate plumbing arrangements were found which make it impractical to determine whether cross-connections exists.
   3. Security requirements or other prohibitions or restrictions exist making it impractical to make a complete site survey.
   4. There is a repeated history of cross-connections being established or reestablished.

C. An approved backflow prevention assembly shall be installed by the customer, at the customer's expense at every service connection to the town's public potable water system and thereafter maintained and tested by

the customer, to ensure operation thereof on a continuing basis whenever a facility is connected to the town's public potable water supply after December 31, 2001.

D. For facilities connected to the town's public potable water supply on or before December 31, 2001, one or more approved backflow prevention assemblies or other backflow prevention methods shall be installed by the customer, at the customer's expense, and therefore maintained and tested by the customer, at the customer's expense, to ensure operation thereof on a continuing basis whenever the public works department or its authorized representative has determined that the public potable water wupply may be subject to contamination, pollution or other deterioration of water quality by conditions or potential conditions within the customer's water system.

E. Fire sprinkler systems subject to the provisions of A.R.S. 41-2168 shall be protected by the procedures formulated by the public works department for backflow prevention complying with A.R.S. 41-2168.

F. Construction water meters shall be equipped with an approved air gap or a reduced pressure backflow prevention assembly, by the customer at the customer's expense, and therefore maintained and tested by the customer as determined by the public works department. Such assemblies are subject to all provisions of this article.

G. Temporary meters, other than construction meters, shall be equipped with a reduced pressure backflow prevention assembly by the customer, at the customer's expense, and therefore maintained and tested by the customer. Such assemblies are subject to all provisions of this article.

13.24.060 Type of assembly required

A. The public works department shall determine the type of protection or assembly required dependant upon the degree of hazard the department determines exists, except that a double check valve assembly shall not be installed where the contamination hazard is dangerous to health. The public works department may authorize the use of a double check valve assembly where the water or substance is not dangerous to health, but may crate a nuisance, be aesthetically objectionable or could cause some damage to the distribution system or its appurtenances.

B. Any property with more than one domestic or irrigation water service shall, at the discretion of the public works department, have backflow protection on each such service to the property.

C. Wherever an uninterrupted water supply is required, multiple assemblies mounted for parallel flow shall be required.

13.24.070 Backflow prevention assembly, installation, maintenance and repair

A. For all customers, connected to the town's potable water system after December 31, 2001, the customer shall install any backflow prevention assembly or device required by this article as a condition to seeking connection or reconnection to the town's public potable water system. The

town may require the customer to provide evidence of the installation and satisfactory operational status of any required backflow prevention assembly or method as a condition of service prior to making any connection or reconnection to the town's public potable water system.

B. Where a commercial or industrial service connection to the town's public potable water system already exists as of December 31, 2001, the customer shall complete installation of an approved and operational backflow prevention assembly or method within the time specified in the notice of this requirement. Where the notice does not specify a time frame, installation shall be completed within (60) days of the date of the notice.

C. Backflow prevention assemblies and devices shall be protected from the elements. All assemblies and devices shall be installed in accordance with the requirements of the public works department and any other governmental entity having jurisdiction thereover outside, above ground, and adjacent to the meter on the customer side of the meter, with the following exceptions:
   1. For residential services, a below grade double check assembly may be installed in a properly sized valve box, unless a double check valve assembly is otherwise prohibited by section X-6; and
   2. For commercial and industrial services in existence as of December 31, 2001, the public works department may allow testable internal protection measures at the actual cross-connection locations(s).

D. The backflow prevention assembly shall be maintained by the customer to ensure proper operation on a continuing basis and sufficient to protect the public potable water supply against any potential hazard posed by the customer's water system or equipment.

E. Whenever backflow prevention assemblies required by this article are found to be defective, they shall be repaired or replaced at the expense of the customer within a reasonable time not to exceed 10 days, unless, upon showing good cause, the public works department determines that a longer period is appropriate and does not constitute an unreasonable risk to the public potable water system.

13.24.080 Permits

A. Installation permits for the installation of all assemblies, devices or methods by the water customer or a contractor shall be obtained from the public works department prior to installation. A separate permit shall be obtained for each assembly, device or method to be installed, including replacements.

B. It shall be the duty of the person doing the work authorized by the permit to notify the public works departments in writing that said work is ready for inspection and testing. Such notification shall be given not less than twenty-four hours before the work is to be inspected and tested and shall be given only if there is reason to believe that the work done will meet the current requirements of the Uniform Plumbing Code, this Code and the University of Southern California Standards, as referred to in the 9th Edition Manual of Cross-Connection Control, or such subsequent editions as approved by the public works department.

13.24.090 Inspections and site surveys

A. All approved backflow prevention assemblies and other backflow prevention methods which are required by applicable federal, state, local, or other regulations to be tested or inspected annually shall be subject to a certified inspection to be provided to the town after each inspection or testing of the assembly. In instances where such assemblies, if not properly installed or maintained, could pose a serious hazard to the town's water distribution system, those assemblies shall be subject to more frequent testing and inspections. A Certified General Tester shall conduct all inspections and testing required thereafter by this article.

B. The town shall conduct periodic site surveys as determined appropriate by the public works department to determine whether cross-connection or other sanitary hazards or violations of this article, or other applicable regulations, exist. An employee or contractor of the town who is a Certified General Tester shall perform such site surveys and shall have the right to enter any premises supplied with the town's water distribution system.

C. When any inspection, testing or site survey reveals that a backflow assembly or method is in an unsatisfactory operating condition or otherwise in a non-permitted condition under this article, it shall be repaired or replaced by the customer, at the customer's expense. Any necessary repairs, including replacements or overhaul of the assembly, shall be completed within a reasonable time not to exceed 10 days.

13.24.100 Testing

A. Each backflow prevention assembly shall be tested by the customer, ast the customer's expense, upon the occurrence of each of the following:
   1. Upon installation or replacement of the assembly; and
   2. Annually upon the anniversary date of the installation or replacement of the assembly; and
   3. Upon repair, overhaul or relocation of any assembly.

B. Such testing shall be accomplished by a Certified General Tester. Testing shall be in accordance with the procedures described in the 9th Edition of the University of Southern California Manual of Cross-Connection Control, or such subsequent editions as approved by the Cross-Connection Control Program Manager.

C. No backflow prevention assembly shall be placed in service unless it has been tested and is functioning as designed and in a satisfactory manner.

13.24.110 Notice of discontinuance of service

A. Whenever notice is required to be given by this article, the town or its authorized representative shall give not less than ten (10) days written notice to the customer, except in case of emergency. Notice herein shall be deemed given when deposited in the United States mail at Springerville, Arizona, first class postage paid, and addressed to the water customer as such customer's address appears on the record of customers maintained by

the town for water bulling purposes. The town may use any other means of notice, such as door hangers, certified mail, express delivery, as it deems reasonably calculated to provide notice to the customer. Any violations which involves an immediate danger of potentially allowing any substance into the town's potable water distribution system shall constitute an emergency, and the notice provided herein shall not be required prior to terminating water service.

B. Initial notice of a backflow prevention assembly or device requirement shall include such information as the public works department determines is appropriate under the circumstances and may include a description of:
   1. The nature of the problem sought to be addressed;
   2. The type of types of backflow prevention assembly or method that is being required;
   3. The proper place and manner of installation;
   4. The time by which installation must be completed;
   5. The testing and record keeping requirements;
   6. The consequences of failing to timely install, or test or inspect a required assembly or method or to maintain records thereof.

C. Notice of violation of this article shall include such information as the public works department deems appropriate under the circumstances and shall state the nature of the violation, the date on which water service to the premises will be terminated, and a telephone number or address where the customer may make inquiry regarding the notice and determine what corrective action is necessary to avoid termination of service.

13.24.120 Termination of water services

A. The public works department may terminate water service to any premises connected to the town's public potable water distribution system after providing notice, upon its determination that any provision of this article is being violated by the customer or occupants of the premises.

B. The public works department shall terminate water service to any premises connected to the town's public potable water distribution system if one or more of the following conditions exists:
   1. An unprotected cross-connection exists on the premises;
   2. An approved backflow prevention assembly has not been installed as required by this article, is not working, has been altered, removed or bypassed or is found to otherwise require the disconnection of the premises from the town's water distribution system by the public works department;
   3. A backflow, backsiphonage or cross-connection problem is identified at any customer's location including single-family residences;
   4. Access to the property for the town or its authorized representative to conduct a required backflow site survey has been denied;
   5. A test record of a backflow prevention assembly, as required by this article, has not been submitted to the public works department.

C. Water service terminated under this section shall not be resumed until the customer demonstrates to the satisfaction of the public works department that the premises are in compliance with this article.

13.24.130 Records

A. Each customer shall maintain records, on forms approved by the public works department, of the results of all tests, services, repairs, overhauls or replacements of backflow assemblies and shall include:
   1. Date of each test;
   2. Name and approval number of person performing the inspection or test;
   3. Test results/inspection results;
   4. Repairs or servicing required;
   5. Repairs and date completed;
   6. Service performed and date completed;
   7. Results of final test.

B. The customer shall promptly deliver a copy of each such record to the public works department after completion of the activity for which the record was made.

C. Each assembly shall have a factory supplied identity tag attached listing the manufacturer and serial number of the assembly.

D. The public works department shall retain those records for a period of at least three years.

13.24.140 Prohibited acts

No bypassing of required assemblies or methods of backflow prevention shall be allowed under any circumstances except for fire emergency.

13.24.150 Limitation of liability

This article makes the customer responsible for protection of the public water supply system from contamination or pollution due to backflow through the customer's water service connection and shall not create any liability nor shall it impose any affirmative duty upon the town, its officers or employees.

13.24.160 Fees

In order to defray the town's costs in establishing and administering the provision of this article, the council shall, by resolution, set the fees to be charged to each customer required to install a backflow prevention assembly or method and over what period of time such customer shall be allowed to make monthly installment payments therefore. The customer shall be entitled to up to two site surveys, inspections or combination thereof, as deemed appropriate by the public works department, per assembly or method of backflow prevention per calendar year without any additional charge, provided if more than two site surveys, inspections or combination thereof, are required in any calendar year, an additional fee may be charged, in which event the council will se such an amount from time to time by resolution.

13.24.170 Availability of standards

A. Both the public works department and the building department shall maintain and make available for review to those customers of the town's water distribution system, plumbing companies and general contractors, information regarding backflow and/or anti-siphon devices and methods, materials, assembly and construction diagrams. Devices, assemblies and their installation, where required, shall be equal to or better than those available for review.

B. The public works department shall maintain a list of backflow prevention assemblies by type and manufacturer. The list, together with instructions for proper installation, shall be available for any customer required to install a backflow prevention assembly.

C. The public works department shall maintain a current list of Certified General Testers which shall be available to any customer required to maintain a backflow prevention assembly.

D. Information maintained and available for review in these departments is subject to supplementation and modification from time to time without the necessity to amend this article and without necessity of public hearings or comments.

14. RESERVED

Title 14

(RESERVED)

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15. BUILDINGS AND CONSTRUCTION

Title 15

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Chapter 15.04

BUILDING CODE

Sections:

15.04.010 Adoption.
15.04.020 Amendment to UBC— Americans with Disabilities Act.
15.04.030 Enforcement.
15.04.040 Order to correct violation.
15.04.050 Notice of civil violation.
15.04.060 Violation—Penalty.
15.04.070 Continued duty to correct.
15.04.080 Collection of civil monetary penalty.

15.04.010 Adoption.

That certain document known as the Uniform Building Code three copies of which are on file with the town clerk, which document was made a public record by Resolution No. 97-549 of the town of Springerville, Arizona; is referred to, adopted and made a part hereof as if fully set forth in this chapter. (Ord. 115 § 1, 1997)

15.04.020 Amendment to UBC— Americans with Disabilities Act.

A. Standards and specifications set forth in Title 41, Chapter 9, Article 8, Arizona Revised Statutes (Arizonans with Disabilities Act), and its implementing rules, including “Americans with Disabilities Act Accessibility Guidelines Buildings and Facilities” declared a public record by Resolution No. 97-547, as applying to public entities, are adopted and incorporated as an amendment to the Uniform Building Code and made a part thereof as though fully set forth therein. Such standards and specifications shall apply to new construction and alterations and are not required in buildings or portions of existing buildings that do not meet the standards and specifications.

B. Standards and specifications set forth in Title 41, Chapter 9, Article 8, Arizona Revised Statutes (Arizonans with Disabilities Act), and its implementing rules, including “Americans with Disabilities Act Accessibility Guidelines Buildings and Facilities” declared a public record by Resolution No. 97-546, as applying to public accommodations and commercial facilities, are adopted and incorporated as an amendment to the Uniform Building Code and made a part thereof as though fully set forth therein. Such standards and specifications shall apply to new construction and alterations commenced after March 5, 1997. (Ord. 116 §§ 1, 2, 1997)

15.04.030 Enforcement.

The Uniform Building Code shall be enforced by the town building inspector, the town zoning administrator or their designees; and they shall, when the interests of the town so require, make investigations in connection with any matter referred

to in the Uniform Building Code and render written reports and issue civil citations. (Ord. 115 § 2, 1997)

15.04.040 Order to correct violation.

Before a notice of civil violation may be served, the town must issue an order to correct violation to the property owner, or to any other person causing, allowing or participating in the violation. The order to correct violation shall request voluntary correction of the violation and shall include, at a minimum, the following information:

A. The name and address of the property owner or other person to whom the order to correct violation is directed. The order to correct violation may be personally served or sent by first class mail to the person, or it may be posted on the affected property or structure; and
B. The physical property address of the land upon which the violation has occurred or is occurring; and
C. A description of the violation, including a reference to this Ordinance No. 115 and the section of the Uniform Building Code; and
D. A brief statement of the action required to be taken to correct the violation. (Ord. 115 § 4, 1997)

15.04.050 Notice of civil violation.

After the date or time by which the correction should have been corrected as stated in the order to correct violation or after a reasonable time, a notice of civil violation shall be served upon the person to whom it is directed either personally or by mailing a copy by certified mail, return receipt requested, to such person at his or her last known address, or by posting the notice of civil violation conspicuously on the affected property or structure. The notice of civil violation shall contain the following information:

A. The name and address of the property owner or other person to whom the order to correct violation is directed. The order to correct violation may be personally served or sent by first class mail to the person, or it may be posted on the affected property or structure; and
B. The physical property address of the land upon which the violation has occurred or is occurring; and
C. A description of the violation, including a reference to this Ordinance No. 115 and the section of the Uniform Building Code;
D. A brief statement of the action required to be taken to correct the violation; and
E. A statement of the civil monetary penalties as set forth in Section 15.04.060. (Ord. 115 § 5 (part), 1997)

15.04.060 Violation—Penalty.

Any person, business or other entity that violates this chapter or fails to comply with any order made hereunder shall be guilty of a civil violation. Following notice of such civil violation, the town of Springerville magistrate court shall hold a hearing and determine by a preponderance of the evidence, whether such

person is guilty of violating this chapter. In cases where the court adjudges a person responsible of a violation, a civil monetary penalty shall be levied as follows:

A. The first day of violation, a penalty not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100.00);
B. The second day of violation, up to two hundred dollars ($200.00);
C. The third day of violation, up to three hundred dollars ($300.00);
D. Each additional day of violation in excess of three days, up to five hundred dollars ($500.00) per day. (Ord. 115 § 5 (part), 1997)

15.04.070 Continued duty to correct.

Payment of a civil monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the town. (Ord. 115 § 6, 1997)

15.04.080 Collection of civil monetary penalty.

The magistrate court shall have the primary duty to collect civil monetary penalties pursuant to this chapter. In addition, the town attorney, on behalf of the town, is authorized to collect the civil monetary penalties assessed pursuant to this section by use of appropriate legal remedies. (Ord. 115 § 7, 1997)

Chapter 15.08

ELECTRICAL CODE

Sections:

15.08.010 National Electrical Code adopted.
15.08.020 Office of electrical inspector created.
15.08.030 Permit required.
15.08.040 Temporary permits.
15.08.050 Effect of permits.
15.08.060 Amendments to electrical code.

15.08.010 National Electrical Code adopted.

A. That certain code entitled "National Electrical Code of 1959," copyrighted by the National Board of Fire Underwriters, is adopted as the Uniform Electrical Code of the town of Springerville and made a part of this chapter the same as though said code was specifically set forth in full herein; and at least three copies of said code shall be filed in the office of the clerk and kept available for public use and inspection.

B. All electrical wiring in or in connection with the construction, installation, alteration or repair of a building or structure, apparatus or equipment within the corporate limits of the town shall be done according to and in conformance with the requirements of the Uniform Electrical Code of the town of Springerville. (Prior code § 8-1-1)

15.08.020 Office of electrical inspector created.

The office of electrical inspector is created and shall have all the powers and duties specified herein and in the electrical code herein adopted, and the electrical inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed by the council upon such terms and conditions as they shall determine. (Prior code § 8-1-2)

15.08.030 Permit required.

A. No wiring in connection with the construction, installation or alteration of any building or other structure, apparatus or equipment shall be commenced until a permit therefore has been issued by the electrical inspector, and the required fees paid by the person to whom the permit is issued, to the electrical inspector as follows:

For each permit	$1.00
For each service entrance	1.00
For each circuit (including fraction of H.P. motor outlets for residential use only)	2.00
For each motor outlet	1.00
For each electric cooker,	

heater, range or oven
over 10KW 2.00

(Ord. 123 § 2, 1998; prior code § 8-1-3)

15.08.040 Temporary permits.

A. Permits may be issued by the electrical inspector for the use of certain classes of temporary open wiring such as carnivals, fairs, demonstrations or evangelistic meetings. Such permits will ordinarily be granted for a period of two weeks only with extensions granted if circumstances justify the same.
B. Temporary permits may also be granted for the use of temporary wiring for lights and power on buildings under construction. Such permits shall be void upon cessation of active construction or when in the opinion of the electrical inspector such wiring becomes hazardous. (Prior code § 8-1-6)

15.08.050 Effect of permits.

The issuance of an electrical permit shall not be construed as an approval by the electrical inspector of any wiring diagrams, specifications or details of such contemplated work insofar as the same or any portion thereof is in conflict with this chapter or any other rules or regulations governing electrical installations in the town. The holder of an electrical permit shall not do or perform any work other than that designated in the application for the permit without first notifying the electrical inspector and paying the additional fee therefore. No work shall be permitted at any location other than that designated by the permit. The electrical inspector must be given immediate notice when an installation is ready for either rough or final inspection. (Prior code § 8-1-7)

15.08.060 Amendments to electrical code.

A. Conductors—Amendment to Section 310 Electrical Code. Wiring systems may be installed in nonmetallic sheath cable, metallic sheath cable, electrical metallic tubing or rigid metal conduit. Knob and tube or concealed open wiring will not be permitted.
   All commercial occupancies shall be wired in conduit.
B. Old Wiring.
   1. Additions to or changes in old wiring must be in accordance with this code, regardless of the manner in which the previous work was done. No addition shall be made to any circuit which will over-load it when figured by the same rule as applied to the wiring of different classes of building in new work. New circuits, when added to old installations, must be carried to the meter board cabinet or center of distribution and a separate cutout or branch block provided to protect the old work. When the total number of added circuits plus the old circuits figured the same as for new work exceed the allowable carrying capacity of the old service wires, new service must be provided and the meter board and equipment brought up to requirements for new work.
   2. Buildings moved to new locations must have service equipment brought up to the requirements of new work.

3. Wiring in buildings which are moved into the town limits shall be brought up to the requirements of new work.

C. Repairing Fire Damage. When repairs to wiring are made necessary by fire or other agency, the electrical inspector shall be consulted as to the amount of replacement necessary, and when wiring has been disconnected as a result of fire, no such wiring shall be connected by any person without clearance and approval by the electrical inspector. (Prior code § 8-1-8)

Chapter 15.12

FIRE CODE

Sections:

15.12.010 Adoption.
15.12.020 Violation—Penalty.

15.12.010 Adoption.

That certain code entitled "The Arizona State Fire Code, Title 8, Chapter 2, Section R8-2-41" and all amendments included, is adopted as the fire code of the town of Springerville, and made a part of this chapter the same as though said code was specifically set forth in full herein; at least one copy of said code shall be filed in the office of the clerk and kept available for public use and inspection. Said fire code was made a public record by Resolution No. 351 of the town of Springerville. (Ord. 72 § 1, 1985: prior code § 8-5 (part))

15.12.020 Violation—Penalty.

Any person found guilty of violating any provision of said fire code shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed three hundred dollars ($300.00) or by imprisonment for a period of not to exceed three months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense and punishable as herein above described. (Ord. 72 § 2, 1985: prior code § 8-5 (part))

Chapter 15.16

BUILDING SPRINKLER SYSTEMS

Sections:

15.16.010 Compliance with minimum standards required.
15.16.020 Commercial structure defined.
15.16.030 Fire chief's approval required.
15.16.040 Violation—Penalty.

15.16.010 Compliance with minimum standards required.

From and after June 19, 1979, all newly constructed commercial structures or buildings within the town shall install and maintain a sprinkler system which shall meet the minimum requirements of the standard provided for by the National Board of Fire Underwriters. The provisions for the installation of the sprinkler system shall meet the minimum requirements and the requirements are made a part of this chapter the same as though the code was specifically set forth in full herein: at least three copies of said code shall be filed in the office of the clerk and kept available for public use and inspection. (Ord. 50 § 1, 1979: prior code § 8-3(A))

15.16.020 Commercial structure defined.

“Commercial structure” or “building” means an enterprise or business which engages either directly or indirectly in the wholesale or retail sale of goods or services or which manufactures any type of goods ultimately to be sold as wholesale or retail sales item and which occupies said structure. (Ord. 50 § 2, 1979: prior code § 8-3(B))

15.16.030 Fire chief's approval required.

At the time of any final inspection of newly constructed buildings, as required by Chapter 15.08, the fire chief of the town shall be notified of the installation of the sprinkler system and shall give approval to the installation. (Ord. 50 § 3, 1979: prior code § 8-3(C))

15.16.040 Violation—Penalty.

Any person, organization or enterprise found guilty of violating any of the provisions of this chapter shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, may be punished by a fine of not to exceed five hundred dollars ($500.00) or by imprisonment for a period of not to exceed thirty (30) days, or by both such fine and imprisonment. Each day that the violation continues shall be a separate offense punishable as hereinabove described. (Ord. 50 § 4, 1979: prior code § 8-3(D))

Chapter 15.20

MOBILEHOMES AND MANUFACTURED HOUSING

Sections:

15.20.010 Adoption of standards by reference.
15.20.020 Compliance with standards required.
15.20.030 Proof of compliance.
15.20.040 Violation—Penalty.

15.20.010 Adoption of standards by reference.

As of the effective date of the ordinance codified in this chapter, mobilehome and manufactured housing unit construction and safety standards adopted by the U.S. Department of Housing and Urban Development (HUD) pursuant to Section 7 (D), Department of Housing and Urban Development Act, 42 U.S.C. 3535 (D), Title VI, Housing and Community Development Act of 1974 (42 U.S.C. 5401 et seq.) as amended and the future amendments thereto are adopted as mobile home and manufactured housing unit construction and safety standards for the town of Springerville. (Ord. 106 § 1, 1994)

15.20.020 Compliance with standards required.

As of the effective date of the ordinance codified in this chapter, the town shall issue no building permit for the installation of any mobilehome or manufactured housing unit within the town of Springerville unless said unit complies with the standards set forth in Section 15.20.010. This prohibition shall also apply to any mobilehome or manufactured housing unit installation permit to be issued for the relocation of a mobile home or manufactured housing unit within the town of Springerville. The burden of proving compliance shall be upon the permit applicant who shall provide the town with information and documentation of such compliance. (Ord. 106 § 2, 1994)

15.20.030 Proof of compliance.

It shall be the responsibility of permit applicants to demonstrate to the building official that any mobile home or manufactured housing unit for which installation permit is requested is in compliance with the standards set forth in Section 15.20.010. Proof of compliance may be satisfied by producing:

A. A decal or other document from the manufacturer certifying that the mobilehome or manufactured housing unit has been inspected and constructed in accordance with the requirements of the U.S. Department of Housing and Urban Development (HUD); or
B. A state of Arizona Insignia of Approval authorized by the Arizona Office of Manufactured Housing pursuant to Arizona Revised Statutes, Title 41; or
C. Other documents which prove compliance with this chapter. (Ord. 106 § 3, 1994)

15.20.040 Violation—Penalty.

Any person violating any provision of this chapter shall be deemed guilty of a Class 2 misdemeanor and upon conviction thereof, the penalties shall be as set forth in Arizona Revised Statutes, Title 13. Each day such violation is committed or permitted to continue shall constitute a separate offense, and shall be punishable as such hereunder. (Ord. 106 § 5, 1994)

Chapter 15.24

FLOOD HAZARD AREA REGULATIONS

Sections:

Article 1. General Provisions
15.24.010 Findings of fact.
15.24.020 Purpose.
15.24.030 Methods of reducing flood losses.
15.24.040 Definitions.
15.24.050 Application of chapter.
15.24.060 Basis for establishing the areas of special flood hazard.
15.24.070 Compliance.
15.24.080 Abrogation and greater restrictions.
15.24.090 Interpretation of chapter provisions.
15.24.100 Warning and disclaimer of liability.
15.24.110 Exemptions.
15.24.120 Declaration of public nuisance.
15.24.130 Abatement of violations.
15.24.140 Unlawful acts.

Article 2. Administration.
15.24.150 Establishment of development permit.
15.24.160 Duties and responsibilities of the floodplain administrator.

Article 3. Provisions For Flood Hazard Reduction
15.24.170 Standards of construction.
15.24.180 Standards for storage of materials and equipment.
15.24.190 Standards for utilities.
15.24.200 Standards for subdivisions.
15.24.210 Standards for mobilehomes and mobilehome parks and subdivisions.
15.24.220 Floodways.

Article 4. Variance Procedure
15.24.230 Appeal board.
15.24.240 Conditions for variances.

Article 1. General Provisions

15.24.010 Findings of fact.

A. The flood hazard areas of Springerville are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 62 § 1.2, 1985: prior code § 16-1-1)

15.24.020 Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Protect human life and health;
B. Minimize expenditure of public money for costly flood control projects;
C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
D. Minimize prolonged business interruptions;
E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
F. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
G. Insure that potential buyers are notified that property is in an area of special flood hazard;
H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 62 § 1.3, 1985: prior code § 16-1-2)

15.24.030 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
C. Controlling the alteration of natural flood plains, stream channels and natural protective barriers which help accommodate or channel flood waters;
D. Controlling filling, grading, dredging and other development which may increase flood damage;
E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 62 § 1.4, 1985: prior code § 16-1-3)

15.24.040 Definitions.

In this chapter, unless the context otherwise requires:

“Appeal” means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated AO or VO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area is designated as Zone A, AO, AH and A1-30 on the FIRM.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Breakaway walls” mean any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are so designed as to breakaway during the base flood without damage to the structural integrity of the building on which they are used or any structures to which they might be carried by flood waters.

“Development” means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

“Existing mobilehome park or mobilehome subdivision” means a parcel or contiguous parcels of land divided into two or more mobilehome lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before April 14, 1983.

“Expansion to an existing mobilehome park or mobilehome subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobilehomes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

“Flood” or **“flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of flood waters; or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood boundary floodway map” means the official map on which the Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

“Flood Insurance Rate Map” (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map and the water surface elevation of the base flood.

“Floodplain administrator” means the town manager who is authorized by the floodplain board to administer the provisions of this chapter.

“Floodplain board” means the town council at such times as they are engaged in the enforcement of this chapter.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodway is delineated on the Flood Boundary Floodway Map.

“Habitable floor” means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

“Mobilehome” means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes, but is not limited to, the definition of “mobilehome” as set forth in regulations governing the Mobile Home Safety and Construction Standards Program (24 C.F.R. 3282.7(a)).

“New construction” means structures for which the start of construction commenced on or after April 14, 1983.

“New mobilehome park or mobilehome subdivision” means a parcel or contiguous parcels of land divided into two or more mobilehome lots for rent or sale for which the construction of facilities for servicing the lot, (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets,) is completed on or after April 14, 1983.

“Person” means any individual or his or her agent, firm, partnership, association, corporation or agent of the aforementioned groups or the state or any agency or political subdivision thereof.

“Start of construction” means the first placement of permanent construction of a structure (other than a mobilehome) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure, (other than a mobilehome,) without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobilehomes not within a mobilehome park or mobilehome subdivision, “start of construction” means the affixing of the mobilehome to its permanent site. For mobilehomes within mobilehome parks or mobilehome subdivisions, “start of construction” is the date on which the construction of facilities for servicing the site on which the mobilehome is to be affixed, (including, at a minimum, the construction of

streets, either final site grading or the pouring of concrete pads, and installation of utilities,) is completed.

"Structure" means a walled and roofed building or mobilehome that is principally above ground.

"Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition substantial improvement is considered to occur when the first alteration of a wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. 62 § 2.0, 1985: prior code § 16-2)

15.24.050 Application of chapter.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of Springerville. (Ord. 62 § 3.1, 1985: prior code § 16-3-1)

15.24.060 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Springerville," dated February 1, 1983 with an accompanying Flood Insurance Rate Map is adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the town of Springerville. The Flood Insurance Study is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the floodplain board by the floodplain administrator. (Ord. 62 § 3.2, 1985: prior code § 16-3-2)

15.24.070 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. (Ord. 62 § 3.3, 1985: prior code § 16-3-3)

15.24.080 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and

another provision of this code, ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 62 § 3.4, 1985: prior code § 16-3-4)

15.24.090 Interpretation of chapter provisions.

In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;
B. Liberally construed in favor of the governing body; and
C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 62 § 3.5, 1985: prior code § 16-3-5)

15.24.100 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town of Springerville, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 62 § 3.6, 1985: prior code § 16-3-6)

15.24.110 Exemptions.

A. In accordance with Section 45-2342, Arizona Revised Statutes, nothing in this chapter shall:
   1. Affect existing uses of property or the right to continuation of the use under conditions which existed on April 14, 1983;
   2. Affect repair or alteration of property for the purposes for which such property was used on April 14, 1983, providing such repair or alteration does not exceed fifty (50) percent of the value of the property prior to the repair or alteration; and provided the repair or alteration does not decrease the carrying capacity of the watercourse;
   3. Affect or apply to facilities constructed or installed pursuant to a certificate of environmental compatibility issued under the authority of Title 40, Chapter 2, Article 6.2, Arizona Revised Statutes.
B. In accordance with Section 45-2343, Arizona Revised Statutes, written authorization shall not be required, nor shall the floodplain board prohibit:
   1. Construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting a watercourse;
   2. Construction of storage dams for watering livestock or wildlife, structures on banks of a creek, stream, river, wash, arroyo or other watercourses to prevent erosion of or damage to adjoining land, or dams for the conservation of floodwaters as permitted by Title 45, Chapter 3, Arizona Revised Statutes;

3. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations which will divert, retard or obstruct the flow of waters in any watercourse;
4. Any flood control district or other political subdivision from exercising powers granted to it under Title 45, Chapter 10, Arizona Revised Statutes;

C. These exemptions do not preclude any person from liability if that person's actions increase flood hazards to any other person or property. (Ord. 62 § 3.7, 1985: prior code § 16-3-7)

15.24.120 Declaration of public nuisance.

Every new structure, building, fill, excavation or development located or maintained within any area of special flood hazard in violation of this chapter is a public nuisance. (Ord. 62 § 3.8, 1985: prior code § 16-3-8)

15.24.130 Abatement of violations.

A. Within thirty (30) days of discovery of a violation of this chapter, the floodplain administrator shall submit a report to the floodplain board which shall include all information available to the floodplain administrator which is pertinent to the violation. Within thirty (30) days of receipt of this report, the floodplain board shall either:
   1. Take any necessary action to effect the abatement of such violation;
   2. Issue a variance to this chapter in accordance with the provisions of Article 4; or
   3. Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the floodplain administrator within thirty (30) days of such order, and he shall submit an amended report to the floodplain board within twenty (20) days.

B. At their next regularly scheduled public meeting, the floodplain board shall either order the abatement of the violation or grant a variance in accordance with the provisions of Article 4. (Ord. 62 § 3.9, 1985: prior code § 16-3-9)

15.24.140 Unlawful acts.

A. It is unlawful for any person to divert, retard or obstruct the flow of waters in any watercourse whenever it creates a hazard to life or property without securing the written authorization of the floodplain board.

B. Any person violating the provisions of this article shall be guilty of a Class 2 misdemeanor. (Ord. 62 § 3.10, 1985: prior code § 16-3-10)

15.24.150 Establishment of development permit.

A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.24.060. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate, drawn to scale showing the nature, location, dimensions

and elevations of the area in question; existing or proposed structures, fill, storage of materials and drainage facilities; and the location of the foregoing.

B. Specifically, the following information is required:
   1. Proposed elevation in relation to mean sea level of the lowest habitable floor (including basement) of all structures; in Zone AO, elevation of existing grade and proposed elevation of lowest habitable floor of all structures;
   2. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
   3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15.24.170(C)(3); and
   4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 62 § 4.1, 1985: prior code § 16-4-1)

15.24.160 Duties and responsibilities of the floodplain administrator

Duties of the floodplain administrator shall include, but not be limited to:

A. Permit Review.
   1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
   2. Review all development permits to determine that the site is reasonably safe from flooding;
   3. Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this chapter, “adversely affects” means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.24.060, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Article 3. Any such information shall be submitted to the floodplain board for adoption.

C. Information to be Obtained and Maintained. Obtain and maintain for public inspection and make available as needed for flood insurance policies the:
   1. Certified elevation required in Section 15.24.170(C)(1);
   2. Certification required in Section 15.24.170(C)(2);
   3. Floodproofing certification required in Section 15.24.170(C)(3); and
   4. Certified elevation required in Section 15.24.200(B).

D. Alteration of Watercourses.
   1. Notify adjacent communities and the Arizona Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

2. Require that the flood-carrying capacity of the altered or relocated portion of the watercourse is maintained.

E. Interpretation of FIRM Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article 4.

F. Take actions on violations of this chapter as required in Section 15.24.130. (Ord. 62 § 4.2, 1985: prior code § 16-4-2)

15.24.170 Standards of construction.

In all areas of special flood hazards the following standards are required:

A. Anchoring.
   1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
   2. All mobilehomes shall meet the anchoring standards of Section 15.24.210(A).

B. Construction Materials and Methods.
   1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
   2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Elevation and Floodproofing.
   1. New construction and substantial improvement of any structure shall have the lowest habitable floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in subdivision 3 of this subsection. Upon the completion of the structure, the elevation of the lowest habitable floor, including basement, shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
   2. New construction and substantial improvement of any structure in Zone AO shall have the lowest floor, including basement, elevation to or above the depth number specified on the FIRM. If there is no depth number of the FIRM, the lowest floor, including basement, shall be elevated one foot above the crown of the nearest street. Nonresidential structures may meet the standards in subdivision 3 of this subsection. Upon completion of the structure, a registered professional engineer shall certify to the floodplain administrator that the elevation of the structure meets this standard.
   3. Nonresidential construction shall either be elevated in conformance with subdivisions 1 and 2 of this subsection or together with attendant utility and sanitary facilities:
      a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
c. Be certified by a registered professional engineer or architect that the standards of this paragraph are satisfied. Such certification shall be provided to the floodplain administrator.

4. Mobilehomes shall meet the above standards and also the standards in Section 15.24.210. (Ord. 62 § 5.1, 1985: prior code § 16-5-1)

15.24.180 Standards for storage of materials and equipment.

A. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
B. Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning. (Ord. 62 § 5.2, 1985: prior code § 16-5-2)

15.24.190 Standards for utilities.

A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into floodwaters.
B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 62 § 5.3, 1985: prior code § 16-5-3)

15.24.200 Standards for subdivisions.

A. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
C. All subdivision proposals shall be consistent with the need to minimize flood damage, and shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
D. All subdivision proposals shall be reviewed to assure that adequate drainage is provided to reduce exposure to flood hazards. (Ord. 62A § 1, 1984; Ord. 62 § 5.4, 1985: prior code § 16-5-4)

15.24.210 Standards for mobilehomes and mobilehome parks and subdivisions.

A. All mobilehomes and additions to mobilehomes shall be anchored to resist flotation, collapse or lateral movement by one of the following methods:

1. By providing an anchoring system designed to withstand horizontal forces of twenty-five (25) pounds per square foot and uplift forces of fifteen (15) pounds per square foot; or
2. By providing over-the-top and frame ties to ground anchors. Specifically:
   a. Over-the-top ties be provided at each of the four corners of the mobilehome, with two additional ties per side at intermediate locations, except that mobilehomes less than fifty (50) feet long require only one additional tie per side,
   b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, except that mobilehomes less than fifty (50) feet long require only four additional ties per side, and
   c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.

B. The following standards are required for mobilehomes not placed in mobile home parks or subdivisions, new mobilehome parks or subdivisions, expansions to existing mobilehome parks or subdivisions and repair, reconstruction or improvements to existing mobilehome parks or subdivisions that equal or exceed fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
   1. Adequate surface drainage and access for a hauler shall be provided.
   2. All mobilehomes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile- home is at or above the base flood level. If elevated on pilings:
      a. The lots shall be large enough to permit steps;
      b. The pilings shall be placed in stable soil no more than ten feet apart; and
      c. Reinforcement shall be provided for pilings more than six feet above the ground level.

C. No mobilehome shall be placed in a floodway, except in an existing mobilehome park or existing mobilehome subdivision. (Ord. 62 § 5.5, 1985: prior code § 16-5-5)

15.24.220 Floodways.

Located within areas of special flood hazards established in Section 15.24.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

B. Prohibit the placement of any mobilehomes except in an existing mobilehome park or subdivision;

C. If subsections A and B of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article; and
D. If no floodway is identified, then a setback of twenty (20) feet from the bank(s) of the watercourse will be established, where encroachment will be prohibited. (Ord. 62 § 5.6, 1985: prior code § 16-5-6)

15.24.230 Appeal board.

A. The floodplain board shall hear and decide appeals and requests for variances from the requirements of this chapter.
B. The floodplain board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.
C. Those aggrieved by the decision of the floodplain board, or any taxpayer, may appeal the decision to the Superior Court of Apache County.
D. In passing upon such applications, the floodplain board shall consider all technical evaluations, all relevant factors and standards specified in other articles of this chapter, and the:
   1. Danger that materials may be swept onto other lands to the injury of others;
   2. Danger of life and property due to flooding or erosion damage;
   3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
   4. Importance of the services provided by the proposed facility to the community;
   5. Necessity to the facility of a waterfront location, where applicable;
   6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
   7. Compatibility of the proposed use with existing and anticipated development;
   8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
   9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
   10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
   11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.
E. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsection D of this section has been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

F. Upon consideration of subsection D of this section and the purposes of this chapter, the floodplain board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
G. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 62 § 6.1, 1985: prior code § 16-6-1)

15.24.240 Conditions for variances.

A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
D. Variances shall only be issued upon a:
   1. Showing of good and sufficient cause;
   2. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and
   3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
E. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notice will also state that the land upon which the variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided for by Title 26, Chapter 2, Article 2, Arizona Revised Statutes. A copy of the notice shall be recorded by the floodplain board in the office of the Apache County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. 62 § 6.2, 1985: prior code § 16-6-2)

16. SUBDIVISIONS

Title 16

SUBDIVISIONS

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Chapter 16.04

GENERAL PROVISIONS

Sections:

16.04.010 Land to be subdivided before recording.
16.04.020 Appeal.

16.04.010 Land to by subdivided before recording.

A. From the effective date of this chapter, no person shall subdivide any tract of land which is located wholly or in part within the Town of Springerville, Arizona, nor shall any person sell, exchange, or offer for sale, or purchase, or offer to purchase any parcel of land which is any part of a subdivision of a larger tract of land within the above-described territory, nor shall any person offer for recording any deed conveying a parcel of land or any interest therein unless he or she shall first have or cause to have made a plat thereof, which plat shall be approved by the council and recorded in the office of the recorder of the county of Apache before such sale or exchange or purchase is affected. The approval of the final plat shall be obtained by complying with all of the requirements of this chapter.

B. Land lying within three miles of the corporate limits of the town is subject to provisions of Chapter 16.24 and to the subdivision ordinance of the county of Apache, Arizona. (Ord. 40C § 1 (part), 1973: prior code § 15-1)

16.04.020 Appeal.

Where the subdivider can show that the application of these regulations will result in an unnecessary hardship, or where the subdivider alleges that there is error in any requirement made by the planning and zoning commission or administrative officer in the administration of these regulations, he or she may appeal to the council. The appeal shall be made in writing, setting forth the particulars and reasons for the appeal. The council may then approve or disapprove, or may approve the subdivision with modifications where a literal enforcement of these regulations would cause hardship upon the subdivider which is unnecessary to carry out the spirit and purpose of the comprehensive plan or this chapter. (Ord. 40C § 1 (part), 1973: prior code § 15-8)

Chapter 16.08

DEFINITIONS

Sections:
16.08.010 Definitions.

16.08.010 Definitions.

In this chapter unless the context requires otherwise:

"Arterial street" means a street, existing or proposed, which serves or is intended to serve as a major traffic-way, and is designated as a major street on the comprehensive plan.

"Collector street" means a street, existing or proposed, which is supplementary to an arterial street and serves or is intended to serve, between neighborhoods or areas within the town.

"Easement" means the quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.

"Engineering drawings" mean drawings showing typical cross sections of streets and the details of location and size of sidewalks, curb and gutters, storm sewers, water and sewer mains, and other improvements to be installed within the subdivision.

"Final plat" means a map or chart of the land division which has been accurately surveyed and such survey marked on the ground, so that streets, alleys, blocks, lots and other divisions thereof are identified.

"Intervening property" means property located between the existing service facility and the territory within the subdivision.

"Large scale development" means a tract of land which is planned and developed as a single entity wherein the requirements applying to all buildings and improvements are modified to conform to the approved plan and wherein the streets, driveways, parks and other common properties are maintained by the owners of the lots.

"Metes and bounds" means the description of a lot or parcel of land by courses and distances.

"Minor street" means a street, existing or proposed, which is supplementary to a collector street and of limited continuity which serves, or is intended to serve, the local needs of a neighborhood.

"Off-site facilities" means facilities designed or located so as to serve other property outside of the boundaries of the subdivision usually lying between the development and existing facilities.

"On-site facilities" means facilities installed within or on the perimeter of the subdivision.

"Oversized facilities" means facilities with added capacity designed to serve other property, in addition to the land within the boundaries of the subdivision or development site.

“Preliminary plan” means a map or chart of a proposed land division prepared in accordance with the provisions of this chapter.

“Planning and zoning commission” means the duly appointed planning and zoning commission of the town.

“Subdivider” means any person or legal entity laying out or making a land division for the purpose of sale, offering for sale, or selling for himself or others a subdivision or any part thereof.

“Subdivision” or **“subdivided lands”** means improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, or for cemetery purposes, whether immediate or future, into five or more lots or parcels. This paragraph shall not apply to the division or proposed division of land into lots or parcels each of which is, or will be, thirty-six (36) acres or more in area including to the center line of dedicated roads or easements, if any, contiguous to the lot or parcel.

“Town planner, planning and zoning administrator” means an individual who has been appointed by the common council of the town to work with the planning and zoning commission as its administrative officer.

“Vicinity plan” means a map or chart showing the relationship of streets and lands within a proposed subdivision to the streets and lands in the surrounding area. (Ord. 40C § 1 (part), 1973: prior code § 15-2)

Chapter 16.12

PROCEDURE

Sections:

16.12.010 Notification of clerk of proposed development.
16.12.020 Preparation of vicinity plan.
16.12.030 Planning and zoning commission approval of vicinity plan.
16.12.040 Preparation of preliminary plan and engineering drawings.
16.12.050 Planning and zoning commission approval of preliminary plan.
16.12.060 Final plat preparation and presentation filing fee.
16.12.070 Planning and zoning commission approval of final plat.
16.12.080 Bond.
16.12.090 Council approval of final plat.
16.12.100 Recording of plat.
16.12.110 Vicinity plan.
16.12.120 Preliminary plan.
16.12.130 Platting requirements for final plats.

16.12.010 Notification of clerk of proposed development.

Any person wishing to subdivide land within the town shall notify the clerk in writing of such intention. The clerk shall furnish information pertaining to the town's plan of streets, parks, drainage and zoning, and the extent of improvements which the subdivider will be required to construct along with other requirements affecting the land to be subdivided. (Ord. 40C § 1 (part), 1973: prior code § 15-3-1)

16.12.020 Preparation of vicinity plan.

After the subdivider has discussed his or her proposed development with the clerk or with the planner, if one has been appointed, he or she shall then prepare a vicinity plan at a scale of not smaller than one inch to five hundred (500) feet, and shall submit three copies of the same to the planning and zoning commission. (Ord. 40C § 1 (part), 1973: prior code § 15-3-2)

16.12.030 Planning and zoning commission approval of vicinity plan.

The commission shall review and shall approve or disapprove the layout of the subdivision, or approve it subject to modifications within thirty (30) days. (Ord. 40C § 1 (part), 1973: prior code § 15-3-3)

16.12.040 Preparation of preliminary plan and engineering drawings.

A. Upon approval of the vicinity plan by the planning and zoning commission, the subdivider shall prepare a preliminary plan of the subdivision and shall submit six copies of the plan to the planning and zoning commission. The subdivider shall also submit a like number of engineering drawings showing:
   1. Typical cross sections of streets;
   2. Designs and locations of curbs, gutters, sidewalks;

3. Location and size of both on-site and off-site water and sewer mains, and any other information or material required by the planning and zoning commission. This shall include a self-explanatory tabulated numerical listing of lots requiring backwater valves as outlined in Section 13.16.070.

B. Where a subdivider owns or controls more land than he or she wishes to develop immediately, the planning and zoning commission may require that a preliminary plan of the whole area be submitted, in which case the subdivider shall indicate on the preliminary plan the portion to be developed immediately and the portion to be held for future development. Whenever final approval has been obtained on any part of an approved preliminary plan, approval of the remaining part of said preliminary plan shall remain in effect for a period of one year and may be extended for another year by submission of the plan to the planning and zoning commission and obtaining approval from such commission. (Ord. 93 § 2, 1988; Ord. 40C § 1 (part), 1973: prior code § 15-3-4)

16.12.050 Planning and zoning commission approval of preliminary plan.

A. The planning and zoning commission shall obtain recommendations from the planner and engineer with respect to the plan, the utility companies with respect to easements for utilities and the health officer with respect to water supply and sewage disposal in the event that the subdivision is not to be served by a public water supply and a public sewage disposal system. The planning and zoning commission shall then review and approve, disapprove or approve the plan with modifications, and shall report their action to the council within sixty (60) days.

B. Approval or denial of the plan shall be based upon compliance or noncompliance with the town's comprehensive plan and zoning ordinance, and with the standards and conditions of approval as set forth herein, and as may be modified or extended by the council or the planning and zoning commission. Failure to act within sixty (60) days shall be deemed approval of the preliminary plan.

C. Action of the planning and zoning commission shall be written on the face of three copies of the plan, two of which shall be retained in the files of the clerk and one of which shall be returned to the subdivider. Approval of the preliminary plan by the planning and zoning commission constitutes authorization for the subdivider to proceed with the preparation of the final plat. If the preliminary plan is disapproved, the planning and zoning commission shall express its reasons therefore to the subdivider on the face of the copy of the plan which is returned to the subdivider. The council shall have the power to overrule the planning and zoning commission's approval or disapproval provided it first expresses its reasons for so doing to the planning and zoning commission, and gives the planning and zoning commission at least thirty (30) days to respond.

D. The preliminary plan, along with the engineering drawings, may be presented to the planning and zoning commission at the same time as the vicinity plan. (Ord. 40C § 1 (part), 1973: prior code § 15-3-5)

16.12.060 Final plat preparation and presentation filing fee.

A. After the preliminary plan has been approved, the subdivider shall then prepare and submit one tracing, one permanently reproducible copy, and three prints of the final plat of the subdivision to the planning and zoning commission. A written application for approval of the final plat on forms furnished by the planning and zoning commission shall also be submitted with the final plat. The permanently reproducible copy shall be filed in the office of the town clerk.

B. In the case of subdivisions located within the town, a checking fee of fifty dollars ($50.00) for each subdivision, plus two dollars ($2.00) per lot within the subdivision for checking the lot shall be payable to the town. It shall be submitted to the planning and zoning commission at the time the final plat is submitted.

C. Two dollars ($2.00) per lot within the subdivision shall be charged for each additional time the subdivision must be checked because of errors in closing. All field measurements shall close within five one-hundredths feet in ten feet. (Ord. 40C § 1 (part), 1973: prior code § 15-3-6)

16.12.070 Planning and zoning commission approval of final plat.

A. The planning and zoning commission shall obtain the recommendation of the planner, if one has been appointed, and the engineer, with respect to the final plat and shall review, approve, disapprove or approve the plat with modifications. Recommendations from the health department shall also be obtained whenever all or part of the subdivision will not be served by a public water and sewer system. Approval of the final plat shall be based upon compliance or noncompliance with the preliminary plan, and with all other standards and conditions which the town has adopted with respect to subdivisions.

B. Minutes of the planning and zoning commission shall show the action taken. If approved, the chairman or his or her authorized representative shall sign the plat and shall indicate the date of approval. The original tracing of the final plat shall then be returned to the subdivider. (Ord. 40C § 1 (part), 1973: prior code § 15-3-7)

16.12.080 Bond.

The subdivider shall then post a bond or other assurance with the clerk in an amount which is at least equal to the cost of constructing all required improvements, as determined by the engineer. The purpose of the bond shall be to guarantee that the improvements shall be installed and paid for without cost to the town within two years from the date of approval. (Ord. 40C § 1 (part), 1973: prior code § 15-3-8)

16.12.090 Council approval of final plat.

The final plat shall then be submitted to the council for its approval or disapproval within thirty (30) days. (Ord. 40C § 1 (part), 1973: prior code § 15-3-9)

16.12.100 Recording of plat.

Upon approval of the final plat by the council, the council shall cause the approved plat to be recorded with the county recorder. Approval of the final plat by the planning and zoning commission shall not be deemed as the acceptance of the dedication of any street, public way, or ground by the town. Such dedication shall occur only upon approval by the council and the recording of the approved plat. If the subdivision lies in the unincorporated area of the county, but within three miles of the corporate boundaries of the town, the final plat must be endorsed by the board of supervisors of Apache County. (Ord. 40C § 1 (part), 1973: prior code § 15-3-10)

16.12.110 Vicinity plan.

The purpose of the vicinity plan is to show how the streets and utilities within the subdivision shall be coordinated with streets and utilities in the surrounding area. The vicinity plan shall show a simple sketch of the proposed layout of streets, lots and other features, in relation to the existing and planned streets within at least one-fourth mile of the subdivision. The plan may be pencil sketch or may be made directly on an aerial photograph. The plan shall be prepared at a scale of one inch to one hundred (100) feet. (Ord. 40C § 1 (part), 1973: prior code § 15-4-1)

16.12.120 Preliminary plan.

The preliminary plan shall be drawn to a scale of one inch to one hundred (100) feet, and shall contain the following:

A. The proposed name of the subdivision;
B. The location of the subdivision as forming a part of a larger tract or parcel where the plan submitted covers only a part of the subdivider's tract;
C. The names and addresses of the subdivider, the engineer, or surveyor of the subdivision, and the owner of the land immediately adjoining the land to be subdivided;
D. Information sufficient to locate accurately the property shown on the plan, with reference to survey markers or monuments;
E. Contour map at one foot intervals when required by the planning and zoning commission;
F. The boundary lines of the tract to be subdivided;
G. The location, width and other dimensions of all existing or platted streets and other important features such as watercourses, exceptional topography and buildings within the tract and within two hundred (200) feet of the tract to be subdivided;
H. Existing sanitary sewers, storm drains, water supply mains, and bridges within the tract, or within two hundred (200) feet thereof;
I. The location, width and other dimensions of proposed streets, alleys, easements, parks and other open spaces, with proper labeling of spaces to be dedicated to the public;
J. North point, scale and date;

K. Engineering drawings, including typical cross sections, plans or written statements regarding the width and type of proposed pavement, location, size and type of proposed off-site and on-site water mains, sanitary sewers, drainage facilities, and other proposed improvements, such as sidewalks, curbs and gutters, parks and fire hydrants;
L. An indication of the intended use of each lot in the subdivision;
M. Copies of protective covenants or other documents limiting the use of the land or lots within the subdivision. (Ord. 40C § 1 (part), 1973: prior code § 15-4-2)

16.12.130 Platting requirements for final plats.

A. A final plat shall be prepared for all subdivisions. The plat shall consist of a sheet of approved tracing linen or mylar of convenient size. The plat shall be so drawn that the top of the sheet either faces north or west, whichever accommodates the drawings better. All lines, dimensions and markings shall be made on the tracing linen with approved waterproof black india drawing ink or equivalent. The actual map shall be made on a scale of one inch to one hundred (100) feet unless approved otherwise by the planning and zoning commission. Details and the workmanship on finished drawings shall be neat, clean cut and readable.
B. The subdivider shall furnish the planning and zoning commission with one permanently reproducible copy and three prints of the final plat when submitting the tracing.
C. The final drawings or plats shall contain the following information:
    1. Subdivision name and the general location of the subdivision;
    2. A north point and scale on the drawing and the date;
    3. Accurately drawn boundaries, showing the proper bearings and dimensions of all boundary lines of the subdivision, properly tied to public survey monuments. These lines should be slightly heavier than street and lot lines;
    4. The names, widths, lengths, bearings and curve data on center lines of proposed public streets, alleys or easements; also the boundaries, bearings and dimensions of all portions within the subdivision, as intended to be dedicated to the use of the public; the lines dimensions, bearings and numbers of all lots; blocks and parks reserved for any reason within the subdivision. All lots and blocks are to be numbered consecutively under a definite system. All proposed streets shall be named or numbered in accordance and in conformity with the street naming and numbering system of the town;
    5. The location of all required monuments;
    6. The description and location of all monuments set and established by the county or the United States Government that are adjacent or near the proposed subdivision;
    7. The standard forms approved by the planning and zoning commission lettered for the following:
        a. Description of land to be included in subdivision,

b. Registered professional engineer or land surveyor's certificate of survey,
c. Owner's dedication,
d. Notary public's acknowledgment,
e. Planning and zoning commission's certificate of approval,
f. The council's certificate of acceptance attested by the clerk. (Ord. 40C § 1 (part), 1973: prior code § 15-5)

Chapter 16.16

DESIGN AND IMPROVEMENT REQUIREMENTS

Sections:

16.16.010 Streets and alley widths, cul-de-sacs and easements.
16.16.020 Blocks.
16.16.030 Lots.
16.16.040 Design specifications.
16.16.050 Improvement requirements.
16.16.060 Costs and charges in connection with the development of subdivisions.
16.16.070 School sites—Other public spaces.
16.16.080 Construction and maintenance of private roads and driveways by town prohibited.
16.16.090 Work to be done by engineer or surveyor.
16.16.100 Continuity of dead end streets protected.

16.16.010 Streets and alley widths, cul-de-sacs and easements.

A. Arterial and collector streets shall conform to the widths as shown in the comprehensive plan adopted by the council. Wherever there is any doubt regarding the required width of any street or highway, the following dimensions shall apply:
   1. Minor street dedications shall have a minimum width of fifty (50) feet;
   2. Collector street dedications shall have a minimum width of sixty (60) feet;
   3. Arterial street dedications shall have a minimum width of eighty (80) feet;
   4. State and federal highways shall have widths as required by the appropriate agency;
   5. The minimum width of roadway wherever curb and gutters are installed, face-to-face of curb, shall be thirty-six (36) feet for minor or local streets, forty (40) feet or conformance to collector street plan, whichever is greater, for collector streets and for arterial streets sixty-six (66) feet or conformance to the arterial street plan, whichever is greater.

B. Alleys may be provided in residential areas, and shall be provided in business areas, except that the commission may waive this requirement where other definite and assured provision is made for service access such as off-street loading, unloading and parking consistent with and adequate for the uses proposed. Alleys shall be twenty (20) feet in width and alley intersections and sharp changes in alignment shall be avoided.

C. Cul-de-sacs, dead-end streets, shall be used only where unusual drainage or land ownership configurations exist which make other designs undesirable. Each cul-de-sac shall have a minimum dedicated width of fifty (50) feet and shall be terminated by a turn-around which has a dedicated diameter of not less than one hundred (100) feet. Surface water must drain away from the turn-around, except that where surface water cannot be drained along the

street away from the turn-around, due to the grade, necessary catch basins and drainage easements shall be provided.

D. Where alleys are not provided, easements of not less than eight feet on each side of all rear lot lines and side lines shall be required where necessary for poles, wire, conduits, storm or sanitary sewers, gas and water mains, and other public utilities. Easements of greater width may be required along property lines where necessary for surface overflow or for the extension of main sewers or similar utilities.

E. Reverse curves shall be discouraged. Where essential, reverse curves shall have a tangent of at least one hundred (100) feet unless in the opinion of the planning and zoning commission such is not necessary.

F. Streets shall intersect each other as nearly as possible at right angles. Minor streets shall approach the arterial or collector streets at an angle of not less than eighty (80) degrees. Offsets in street alignment between ten feet and one hundred twenty (120) feet shall be prohibited.

G. Minimum street grades of five-tenths of one percent shall be required, except that the planning and zoning commission shall have the power to require a steeper grade when in the opinion of the engineer the best development of the land is thereby secured.

H. Where the street lines within a block deflect from each other at any one point more than ten degrees, there shall be a connecting curve. The radius of the curve for the inner street line shall be not less than three hundred fifty (350) feet for arterial streets, two hundred fifty (250) feet for collector streets, and one hundred (100) feet for minor streets.

I. Curbs at all intersections shall be rounded with curves having a minimum radius of twenty-five (25) feet. Property lines at street intersections shall be rounded with a curve where necessary.

J. New street names shall not duplicate those already existing. A street, obviously a continuation of another already in existence, shall bear the same name.

K. All streets shall be dedicated for public use, except in an approved large scale development where a property owners association has been established which will maintain the streets in a manner comparable to streets that are maintained by the town. The dedication of half streets in any subdivision is prohibited, except on the borders of subdivisions.

L. The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas or their proper protection where adjoining land is not subdivided at the same or greater width, but in no case less than the required minimum width unless variations are deemed necessary by the planning and zoning commission. Where the planning and zoning commission determines that it is desirable to provide for street access to adjoining property in order to provide an orderly development of a street system, proposed streets shall be extended by dedication to the boundary of such property. (Prior code § 15-4-3)

16.16.020 Blocks.

The maximum length of blocks shall be one thousand three hundred (1,300) feet and the minimum length of blocks shall be four hundred (400) feet. In blocks over eight hundred (800) feet in length, the subdivider may be required to dedicate a passageway or alley through the block at approximately the center of the block. Such passageway or alley shall not be less than twenty (20) feet in width. The width of blocks shall be sufficient to allow two tiers of lots.

Blocks intended for business and industrial use shall be designed especially for such purposes with adequate space set aside for off-street parking and delivery facilities, and for loading and unloading. (Prior code § 15-4-4)

16.16.030 Lots.

A. The lot arrangement, design and shape shall be such that lots will provide a compact body of land for buildings and be properly related to topography and conform to requirements set forth herein. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage which would be unusable for normal purposes.
B. All lots shown on the final plat must conform to the minimum requirements of the zoning ordinance for the zone in which the subdivision is located or else an amendment in the zoning ordinance or map need be obtained prior to approval of the final plat.
C. Each lot shall abut on an approved street or on an existing publicly dedicated street which is more than twenty-six (26) feet wide, except when approved by the planning and zoning commission as a large scale development. Interior lots having frontage on two streets shall be prohibited, except where topographic conditions make such design desirable.
D. Corner lots shall have dimensions sufficient for the maintenance of required building setback lines on both streets, along with sufficient area to comply with area requirements of the zone in which the subdivision is located.
E. Side lines of lots shall be approximately at right angles, or radial to the street line, except where conditions make it advisable to have side lot lines deflect at sharper angles.
F. All remnants of lots below minimum size left over after subdividing a larger tract shall be attached to adjacent lots, rather than be allowed to remain as unusable parcels.
G. Where the land covered by a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership before approval of the final plat, and such transfer shall be recorded in the county recorder's office before being certified to the planning and zoning commission by the subdivider. (Prior code § 15-4-5)

16.16.040 Design specifications.

Specifications for the design of street sub-base, base, hardsurfacing, curb and gutters, sidewalks, and the treatment of drainage courses shall comply with standards and specifications as adopted by the council. (Prior code § 15-4-6)

16.16.050 Improvement requirements.

The council shall not approve a final plat until the subdivider provides a bond or other assurance satisfactory to the council that improvements shall be installed. The purpose of the bond or other assurance is to ensure construction of the required improvements within two years from date of approval of the subdivision without cost to the town. The required improvements shall include the following:

A. The grading, graveling, hardsurfacing and installation of culverts in compliance with standards and specifications as adopted by the town;
B. The installation of water lines, fire hydrants, water meters, sewer and gas lines in compliance with standards and specifications as adopted by the town;
C. Electric and telephone lines shall be located underground, except that such lines may be located above ground when the subdivider can show the planning and zoning commission that underground lines are not feasible;
D. The installation of survey monuments in accordance with standards and specifications as adopted by the town. (Prior code § 15-4-7)

16.16.060 Costs and charges in connection with the development of subdivisions.

Cost of improvements which are required under the provisions of this chapter, as well as the cost of other improvements which the subdivider may install, shall be shared between the subdivider and the town according to the following schedule:

Facility	Developer	Town
Bridges	100% for all minor streets	0%
Curb and gutter, and Curb cuts	100%	0%
Easements and rights-of-way “on-site” and “off-site”	100%	0%
Electric utilities	100% for easements and rights-of-way	0%
Grading and drainage of streets “off-site”	Special negotiations with council	Special negotiations with council
Grading and drainage of streets “on-site”	100% for all minor and collector streets	100% for all grading and drainage required by town over costs of grading and drainage of collector streets

Monuments	100%	0%
Sewer mains	All costs up to and including eight inch mains	All costs for water mains over eight inches in diameter when required by the town
Sidewalk	100%	0%
Storm drains, canal and flood channel protection	100%	0%
Street lighting	100% for easements and rights-of-way	Maintenance after installation by utility company
Street paving paving	100% for all minor streets and for collector streets and arterial streets up to forty feet of pavement width	All required width of over forty feet for major streets when required by the town
Street signs install	100% of cost as per town specifications	Town may make and signs at cost to developer
Water mains	All costs up to and including six inch mains	All costs for water mains over six inches in diameter when required by the town

(Prior code § 15-4-8)

16.16.070 School sites—Other public spaces.

In subdividing property, consideration shall be given to sites for schools, parks, playgrounds and other areas for public use, as shown on the town's comprehensive plan. Any provision for such open spaces shall be indicated on the preliminary plan in order that it may be determined in what manner such areas will be dedicated to, or acquired by, the appropriate agency. (Prior code § 15-7-1)

16.16.080 Construction and maintenance of private roads and driveways by town prohibited.

A. The town shall not open, grade, pave or perform any maintenance work on any private or undedicated street or alley, and the town shall refrain from laying utility lines in any street which has not been accepted by the council as a public street or alley, or which has not received the approval of the council as part of a final plat of a subdivision, unless an easement is granted therefore.
B. The town shall not accept or maintain streets or other public ways unless said streets have been constructed in accordance with standards and specifications which have been adopted by the council. (Prior code § 15-7-2)

16.16.090 Work to be done by engineer or surveyor.

All engineering work or surveying of property shall be done by or under direction of a registered professional engineer or land surveyor registered in the state of Arizona. (Prior code § 15-7-3)

16.16.100 Continuity of dead end streets protected.

When a proposed subdivision has a street which terminates against the private property of an individual, other than the subdivider, a strip of land at least one foot wide across the entire end of the subdivider's proposed street and on the subdivider's property shall be platted as a lot and the lot shall be deeded to the town as a lot in the proposed subdivision for future street purposes. (Prior code § 15-7-4)

Chapter 16.20

PERFORMANCE GUARANTEES

Sections:

16.20.010 Type and amount of guarantee.
16.20.020 Duration.
16.20.030 Default.
16.20.040 Final inspection and release.

16.20.010 Type and amount of guarantee.

The type of guarantee shall be in the form of a performance bond, or other assurance equal to the cost of the required improvements plus ten percent as determined by the town engineer. The subdivider shall furnish an estimate of the cost of constructing the required improvements. The estimate shall be prepared by an engineer registered to practice in the state of Arizona and approved by the town engineer. (Prior code § 15-6-1)

16.20.020 Duration.

A. The duration of the performance bond or other assurance shall be for not less than two years from the date of approval of the final plat of the subdivision by the council.
B. An extension of time may be granted by the council upon application by the subdivider, provided such application is submitted at least sixty (60) days prior to the expiration of the bond or other assurance and provided the issuer of the bond or other assurance is willing to extend the time of the assurance. (Prior code § 15-6-2)

16.20.030 Default.

If the subdivider defaults or fails or neglects to satisfactorily install the required improvements within two years from the date of approval of the final plat by the council, the council may declare the bond or other assurance forfeited and the town may install or cause the required improvements to be installed, using the proceeds of the collection of the bond or other assurance to defray the expense thereof. (Prior code § 15-6-3)

16.20.040 Final inspection and release.

The subdivider shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten days prior to the release date of the bond or other assurance, the clerk or authorized representative shall make a preliminary inspection of the improvements and shall submit a report to the council, setting forth the conditions of such facilities. If all liens are paid, and other conditions thereof are found to be satisfactory, the council shall release the bond. If the condition of materials or workmanship shows unusual depreciation or does not comply with town standards, or if any

outstanding liens are not paid, the council may declare the subdivider in default. (Prior code § 15-6-4)

Chapter 16.24

SUBDIVISIONS WITHIN THREE MILES OF TOWN LIMITS

Sections:

16.24.010 Written notice and submission of preliminary plan.
16.24.020 Projection of streets and alleys—Costs.
16.24.030 Duty of subdivider.
16.24.040 Additional contents of map.
16.24.050 Filing of map or plat.
16.24.060 Hearing by the board of supervisors.
16.24.070 Approval by the board of supervisors.
16.24.080 Amendments to plat.
16.24.090 Nonacceptance by owner—Projection expenses.
16.24.100 Subdivision name.
16.24.110 Title to property reserved to public use.
16.24.120 Acceptance of plat by recorder.
16.24.130 Conveyance by reference to plat—Restriction.

16.24.010 Written notice and submission of preliminary plan.

When the owner of land, the whole or part of which lies in the unincorporated area within three miles of the corporate limits of the town, desires to subdivide such land, he or she shall file an application with the planning and zoning commission on forms furnished by the commission. In addition to the written notice, the subdivider shall submit to the planning and zoning commission a preliminary plan of the land showing the manner in which he or she desires to subdivide the land. (Prior code § 15-9-1)

16.24.020 Projection of streets and alleys—Costs.

A. The town may, if it desires that the streets or alleys of the tract conform with the projected streets or alleys of the town, project the lines of such streets and alleys to the nearest outer boundary lines of the subdivision and thereon mark the same. The town shall supply the subdivider with the courses of the lines. The town shall bear the costs of projecting the lines and establishing the courses thereof.
B. The town may submit a written report to the subdivider, recommending changes in the submitted plan of the location or dimension of streets, alleys, parks, easements for rights-of-way or property intended to be devoted to the use of the public. One copy of such report shall be furnished to the board of supervisors of Apache County.
C. The report, or the projection of street and alley lines, or both, shall be submitted to the subdivider within thirty (30) days from the date that the notice of intention to subdivide is delivered to the town. (Prior code § 15-9-2)

16.24.030 Duty of subdivider.

The subdivider, when furnished with a written report or the projection of street and alley lines, or both, shall cause the land to be subdivided into lots, blocks, streets, alleys, parks and parkways, so as to reasonably conform to the report and projected lines and the courses thereof, and shall prepare in duplicate an accurate map or plat thereof on cloth, drawn and attested to by a civil engineer from his or her survey of the ground. The engineer shall, in making the survey, leave sufficient permanent monuments so that another surveyor or engineer may retrace his work. The nature and location of the monuments shall be plainly shown on the map. (Prior code § 15-9-3)

16.24.040 Additional contents of map.

The final plat shall particularly set forth and describe the following:

A. Parcels of ground within the tract or subdivision to be used for public purposes or offered for dedication for public uses, and their dimensions, boundaries and courses;
B. Evidence that the proposed use of land and size of lots conforms to the provisions of the zone in which the land is located;
C. Designated either by number or letter, lots intended for sale, or reserved for private use, and their dimensions, boundaries and courses;
D. The location of the subdivision and lots therein with reference to adjacent subdivisions, the maps and plats of which have been previously recorded, or if none, then with reference to corners of a United States survey, or if on land unsurveyed by the United States, then to some prominent artificial monument established for such purpose. (Prior code § 15-9-4)

16.24.050 Filing of map or plat.

One copy of the map or plat shall be filed with the clerk and the other copy filed with the board of supervisors of Apache County together with an application for the approval of the map or plat. (Prior code § 15-9-5)

16.24.060 Hearing by the board of supervisors.

A. Pursuant to statutes, the board of supervisors may set the application for hearing not less than fifteen (15) nor more than thirty (30) days from the date of filing of the map or plat, and application with the board, and shall cause written notice thereof to be given to the town, as provided in Arizona Revised Statutes 9-475.
B. The town may appear at the hearing and show cause why the application should not be granted. (Prior code § 15-9-6)

16.24.070 Approval by the board of supervisors.

Pursuant to statutes, if it appears to the board of supervisors that the plan or map reasonably conforms to legal requirements, and to the provisions of the comprehensive plan, it may approve and endorse the approval upon the map or plat, and transmit it to the county recorder for filing. (Prior code § 15-9-7)

16.24.080 Amendments to plat.

If at the hearing it is determined by the board of supervisors that corrections, additions or amendments in any respect shall be made to the map or plat, then the map or plat shall be prepared by the subdivider in accordance with the amendments, corrections or additions, and the consent of the subdivider and the board of supervisors shall be endorsed thereon and filed with the county recorder. (Prior code § 15-9-8)

16.24.090 Nonacceptance by owner—Projection expenses.
If the subdivider declines to accept the amendments, additions or corrections, he or she shall pay to the town the actual engineering expenses incurred in the preparation of the projections. (Prior code § 15-9-9)

16.24.100 Subdivision name.
A name, title or designation of the subdivision shall be placed on the plat and acknowledgment thereof shall be made by the subdivider. No title, name or designation shall be given that is the same as that of a subdivision in a city or town in the same county of which a plat or map has been recorded. (Prior code § 15-9-10)

16.24.110 Title to property reserved to public use.
Upon the filing of the plat or map, the fee of all streets, alleys, parks and other parcels of ground reserved therein to the use of the public, shall vest in the public. (Prior code § 15-9-11)

16.24.120 Acceptance of plat by recorder.
No plat or map may be accepted by the county recorder for filing unless it complies with the provisions of Arizona Revised Statutes, Title 9, Article 7, but if a subdivider has given to the town written notice of intention to subdivide and the town has failed or refused within the time specified in said article above mentioned to project the lines of its streets and alleys and to supply the courses thereof, then the subdivider may file with the county recorder the plat or map of the subdivision in conformity with law, attaching thereto the sworn statement of the subdivider of the proceedings. (Prior code § 15-9-12)

16.24.130 Conveyance by reference to plat—Restriction.
No property shall be sold or described in a conveyance or other instrument by reference to any map or plat of a subdivision comprehended within the provisions of Arizona Revised Statutes, Title 9, Article 7, unless the map or plat has been prepared and filed under the provisions of said Title 9, Article 7. (Prior code 15-9-13)

17. ZONING

Title 17

ZONING

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Chapter 17.04

ADMINISTRATION AND ENFORCEMENT

Sections:

17.04.010 Short Title.
17.04.020 Purpose.
17.04.030 Interpretation and Application.
17.04.040 Enforcement.
17.04.050 Violation and Penalty.
17.04.090 Severability.

17.04.010 Short Title

This Ordinance shall be known as "The Zoning Ordinance of the Town of Springerville".

17.04.020 Purpose

The purposes of this Ordinance are to secure safety from fire, panic and other dangers; to provide adequate light and air; to lessen congestion in the streets; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources; to otherwise promote the health, safety, convenience and general welfare of the citizens of the Town of Springerville, Arizona.

17.04.030 Interpretation and Application

In its' interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of a comprehensive plan, and for the promotion of the public health, safety and general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or with restrictions placed upon property by covenant, deed or other agreement between parties, provided that where this Ordinance imposes a greater restriction on land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this Ordinance shall control.

17.04.040 Enforcement

This Ordinance shall be enforced by the Zoning Administrator who shall in no case grant permission for the issuance of any permit for the construction, reconstruction, alteration, demolition, movement or use of any building, structure, lot or parcel if the building, structure, lot or parcel as proposed to be constructed, reconstructed, altered, used or moved, would be in violation of any of the provisions of this Ordinance, unless directed to issue such permit by the Board of

Adjustment after interpretation of the Ordinance or the granting of a variance, or by the Town Council after interpretation of this Ordinance.

17.04.050 Violation and Penalty

It is hereby declared to be unlawful to construct, erect, install, alter, change, demolish, maintain or use any house, building, structure or fence, or to use any lot or parcel contrary to, or in violation of, any provision of this Ordinance. Any person, firm, or corporation, violating any of the provisions of the Zoning Ordinance of the Town of Springerville shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars ($300.00) or by imprisonment for a term not exceeding ninety (90) days, or by both such fine and imprisonment. Every such person, firm or corporation shall be deemed guilty of a separate offense for each and every day in which such violation is committed, continued or permitted, and shall be punished therefore as herein before provided in this section.

17.04.060 Severability

If any part of "The Zoning Ordinance of the Town of Springerville" is found to be invalid or unconstitutional by any Court, such action shall not apply to the Ordinance as a whole, but only to that specific part, and it is intended and declared that all parts of said "Zoning Ordinance of the Town of Springerville" 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.

Chapter 17.08

DEFINITIONS

Sections:
17.08.010 General.

17.08.010 General

For the purpose of this ordinance, certain words and terms used herein are defined as follows: All words used in the present tense include the future tense; all words in the plural number include the singular number; all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory and not discretionary. Other words and phrases used in this ordinance shall have the following meaning:

Abutting – The condition of two adjoining properties having a common property line or boundary, including cases where two (2) or more lots adjoin only at corner or corners.

Access or access way – The place, means or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Ordinance.

Acre – An area of land containing 43,560 square feet (43,560 ft2).

Adjacent, adjoining – Nearby, but not necessarily touching.

Agriculture – The tilling of the soil, raising of crops, horticulture, viticulture, silviculture, including all uses customarily incidental thereto, but not including a slaughter house(s), fertilizer yard(s) or plant(s) for the reduction of animal matter or any other industrial use which is similarly objectionable because of noise, odor, smoke, dust or fumes.

Airport – Any area which is used or is intended to be used primarily for the taking off and landing of aircraft, and any appurtenant areas which are used or intended to be used for airport buildings or facilities, including open spaces, taxiways and tie-down areas, hangars, transition and clear zones, and other accessory buildings.

Alley – A right-of-way, dedicated to public use, affording a secondary means of access to abutting property and intended for general traffic circulation.

Amendment – A change in the wording, context, or substance of this Ordinance, or an addition or deletion or a change in the zone district boundaries or classifications of the Zoning Map.

Animal Hospital – Facilities for the care, treatment and boarding of animals including the term "Veterinary Clinic".

Antique – A product that is sold or exchanged because of value derived, because of oldness as respects the present age, and not simply because same is not a new product.

Appeal – An action which permits anyone to arrange for a hearing from other than the individual or group from whose decision the appellant seeks redress.

Automobile Repair – All aspects of the repair of motor vehicles, including, but not limited to, lubrication, tune-up and preventative maintenance.

Automobile Sales, New – A franchised agency selling new motor vehicles and providing services commonly associated with motor vehicle sales. A new automobile dealership may include the sale of used motor vehicles.

Automobile Sales, Used – An agency selling used motor vehicles not in conjunction with and on the same site as a new motor vehicle franchise and providing services commonly associated with motor vehicle sales.

Bar or Cocktail Lounge – An establishment whose primary business is the serving of alcoholic beverages to the public for consumption on the premises.

Board of Adjustment – (See Section 105).

Building – A structure having one (1) or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind. This shall not include dog houses, play houses or similar structures.

Building, Accessory – A building or structure which is subordinate to, and the use of which is customarily incidental to that of the main building, structure or use on the same lot or parcel.

Building Area – The total area, taken on a horizontal plane at the mean grade level, of the principal buildings and all accessory buildings, exclusive of uncovered porches, terraces and steps.

Building, Attached – A building which has at least part of a wall in common with another building, or which is connected to another building by a roof.

Building, Detached – A building which is separated from another building or buildings on the same lot.

Building, Height of – The vertical distance measured from the average grade level to the highest level of the roof surface of flat roofs, to the deck line of mansard roofs, or the mean height between eaves and ridges for gable, gambrel, shed or hip roofs. In the event that terrain problems prevent an accurate determination of heights, the Zoning Administrator shall rule as to the height and appeal for that decision shall be to the Board of Adjustment.

Building, Main – A building or buildings in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the main building of the lot on which the same is situated.

Building Permit – A permit required for the erection, construction, modification, addition to or moving of any building, structure or use in the incorporated area of the Town of Springerville.

Building Setback – The minimum distance as prescribed by this Ordinance between any property line and the closest point of the foundation or any supporting post or pillar or any building or structure related thereto. (See Yard, Front, Side and Rear).

Campground – Any lot, parcel or tract of land used, designed, maintained and intended for rent of plots or sites, to accommodate temporary camping by the traveling public, with or without sanitary facilities and water, whether or not a charge is made for the use of the park and its' facilities. (See Section 404.P).

Cemetery – Land used or intended to be used for the burial of the dead, and dedicated for such purposes, including columbariums, crematoriums,

mausoleums and mortuaries when operated in conjunction with and within the boundaries of such premises.

Church – A permanently located building commonly used for religious worship fully enclosed with walls, but including windows and doors, and having a structurally solid and sound roof.

Clinic – A place for the provisions of group medical services, not involving overnight housing of patients.

Commission – Town of Springerville Planning and Zoning Commission. (See Section 104).

Contiguous – In actual contact.

Convalescent Home – Same as "Nursing Home".

Council – Springerville Town Council.

County – Apache County, Arizona.

Day Care – (See School, Nursery).

Drive-In Restaurant – Any establishment where food or beverages are dispensed and may be consumed on the premises, but outside a closed building.

Drive-In Theater – An open air theater where the performance is viewed by all or part of the audience from motor vehicles.

Dwelling, Multiple-Family – A building designed exclusively for occupancy by or occupied by two (2) or more families living independently of each other.

Dwelling, Single Family – A detached dwelling unit designed exclusively for occupancy by or occupied by one (1) family for residential purposes.

Dwelling Unit – A room or group of rooms within a dwelling containing one (1) cooking accommodation, occupied exclusively by one or more persons living as a single non-profit family housekeeping unit.

Easement – A space on a lot or parcel of land reserved or used for location and/or access to utilities, drainage or other physical access purposes.

Erect – The word "erect" includes built, built upon, added to, altered, constructed, reconstructed, moved upon or any physical operations on the land, required for a building.

Factory Built Home – A permanent dwelling as defined by the U.S. Department of Housing and Urban Development, in 24 CFR 3280 and adopted by the State of Arizona Board of Manufactured Housing Under (A.R.S. 41-2141 et Seq.) and further defined by the State of Arizona Department of Building and Fire Safety in rules revised June, 1996, adopted by Ordinance No. 106, Town of Springerville (17 Aug 1994).

Family – Any individual, or two (2) or more persons related by blood or marriage, or a group of persons not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

Farming – (Same as Agriculture).

Fence – Any device built to enclose a parcel of land, to separate two (2) parcels of land, or to separate a parcel of land into different use areas.

Garage, Private – A building or portion thereof, used for the shelter or storage of self-propelled vehicles or owned or operated by the occupants of a main building wherein there is no service or storage for compensation.

Garage, Public – Any building except as herein defined as a private garage used for the storage, care or repair of self-propelled vehicles or where any vehicles are equipped for operation or kept for hire.

Guest House – Living or sleeping quarters within an accessory building for the sole use of occupants of the premises, guests of such occupants and/or otherwise used for income purposes.

Home Occupation – Any occupation or profession which is incidental and subordinate to the use of the dwelling unit for dwelling purposes and which does not change the character thereof and in conjunction with residing in the dwelling unit. (See Section 404.I).

Hospital – A place for the treatment or care of human ailments, where overnight lodging for patients is provided.

Hotel – A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

Junk Yard – Any land or building used for the abandonment, storage, keeping, collecting or bailing of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling storage or salvaging of automobiles or other vehicles not in running condition, or machinery or parts thereof.

Kennel – Any premises where five (5) or more dogs or cats are bred, boarded and/or trained.

Lot – A legally created parcel of land.

Lot Area – The total horizontal area within the lot lines of a lot.

Lot Coverage – That portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools.

Lot Depth – The horizontal length of a straight line connecting the midpoints of the front and rear lot lines.

Lot Frontage – The horizontal length of the front lot line.

Lot Line – The line bounding a lot.

Lot Line, Front – In the case of an interior lot, a line separating the lot from the street, and in the case of a corner lot, the line separating the narrowest street frontage of the lot from the street.

Lot Line, Rear – A lot line which is opposite and most distant from the front lot line.

Lot Line, Side – Those lot lines connecting the front and rear lot lines.

Lot Width, Average – The distance between side lot lines measured thirty feet (30') behind the required minimum front yard line parallel to the street or street chord.

Manufactured Home – A movable or portable dwelling as defined by the U.S. Department of Housing and Urban Development, in 24 CFR 3280 and adopted by the State of Arizona Board of Manufactured Housing Under (A.R.S. 41-2141 et Seq.) and further defined by the State of Arizona Department of Building and Fire Safety in rules revised June, 1996, adopted by Ordinance No. 106, Town of Springerville (17 Aug 1994).

Mobile/Manufactured Home Park – Any lot, parcel or tracked of land designed, maintained, used and intended for rent or lease of individual lots or

sites to accommodate one (1) or more Mobile/Manufactured home including all buildings structures, vehicles, accessory buildings and appurtenances to be used in connection there with, whether or not a charge is made for the use of the site or the use of its' facilities. A Mobile/Manufactured home park does not include lots upon which unoccupied Mobile/Manufactured homes or unoccupied travel, or commercial trailers are parked for display, inspection and sale.

Modular Home – See Factory Built Home.

Motel – A building or group of buildings containing guest rooms or apartments, each of which maintains a separate outside entrance, used primarily for the accommodation of motorists, and providing automobile parking spaces on the premises.

Non-Conforming Structure – A structure which was lawfully erected prior to the adoption of this Ordinance, but which under this Ordinance, does not conform with the standards of lot coverage, yard spaces, height of structures, distance between structures or other standards prescribed in the regulations of the district in which the structure is located. (See Section 403).

Non-Conforming Use – A use of a structure or land which was lawfully established and maintained prior to the adoption of this Ordinance, but which under this Ordinance, does not conform to the use regulations for the district in which it is located. (See Section 403).

Nuisance – Any thing, condition or use of property which endangers life or health, gives offense to the senses and/or obstructs the reasonable and comfortable use of other property.

Nursing Home – A structure operated as a lodging house in which nursing, dietary and other personal services are rendered to convalescents, not including persons suffering from contagious diseases, and in which surgery is not performed, and primary treatment such as customarily is given in hospitals and sanitariums, is not provided. A convalescent home shall be deemed a nursing home.

Nursery – A commercial operation for the growth and sale of plants, storage of equipment for landscaping and the wholesale or retail sale of commercial gardening supplies.

Office – A room or rooms and accessory facilities for the managing or conducting of a business.

Off-Street Parking and Loading Facilities – a site or a portion of a site devoted to the off-street parking and loading of motor vehicles, including parking spaces, aisles and access drives. (See Section 406).

Park – A public or private parcel of land developed and used for passive or active recreation.

Parking Area – An area designed and constructed and used exclusively for the parking, storage and maneuvering of vehicles. (See Section 406).

Professional Office – Any building, structure, or portion thereof used or intended to be used as an office for a lawyer, architect, engineer, surveyor, planner, optometrist, accountant, doctor, dentist or other similar professions.

Public Building – Facilities for conducting public business by various public agencies, including Federal, State, County offices and buildings.

Public Hearing – Hearings held as required by law.

Public Utility – Private or public facilities for distribution of various services such as water, power, gas, communication, etc. to the public.

Recreation Facilities – Includes buildings, structures or areas built or developed for purposes of entertaining, exercising or observing various activities participated in either actively or passively by individuals or organized groups.

Recreation Vehicle – A vehicular type unit designed primarily as temporary living quarters for recreational, camping or travel use, which either has its' own motive power or is mounted on or drawn by another vehicle. This includes motor homes, travel trailers, and campers.

Recreational Vehicle Park – Facilities for the temporary storage, parking and maneuvering of recreational vehicles (motor homes, travel trailers, campers, etc.) with adequate roads and stall sites, including sanitary and water facilities. Site locations are provided on a day-to-day basis. Does not constitute a Mobile/Manufactured home park.

Restaurant – An establishment which serves food or beverages only to persons seated within the building. This includes cafes, tea rooms and similar establishments.

Retail Store – A commercial business for selling goods, services, wares, or merchandise directly to the customer.

Right-of-Way – Includes any public or private right-of-way and includes any area required for public use pursuant to any official plan.

School, Elementary, Junior High, High School – Public and other nonprofit institutions, conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instructions equivalent to the standards prescribed by the State Board of Education.

School, Nursery – A school or the use of a site or a portion of a site for an organized program devoted to the education or day care of five (5) or more children of elementary school age or younger, other than those residents on the site. Includes "Day Care Center".

School, Private or Parochial – An institution conducting regular academic instruction at kindergarten, elementary and secondary levels operated by a non-governmental organization.

School, Trade – Schools offering instruction in the technical, commercial or trade skills, such as real estate schools, business colleges, electronic schools, automotive and aircraft technician schools and similar commercial establishments operated by a non-governmental organization.

Service Station – An occupancy engaged in the retail sales of gasoline, oil, tires, batteries and new accessories and which provides for the servicing of motor vehicles and operations incidental thereto, including automobile washing, waxing and polishing, tire changing and repairing, but not including recapping. May also include battery service, radiator cleaning, flushing and repair, installation of minor accessories, lubrication of motor vehicles, rental of utility trailers, testing, adjustment and replacement of motor parts and accessories.

Shopping Center – A group of three (3) or more commercial establishments associated by common agreement or under common ownership which compromises contiguous land parcel unit with common parking facilities.

Sign – Any identification, description, illustration or device which is affixed directly or indirectly upon a building, structure or land which directs attention to a product, place, activity, person, institution or business and which is visible from any public street, waterway, alley or public place, and shall include banners and similar services. A vehicle mounted sign on a vehicle that is habitually parked or stationed at the sight of a business and serves to advertise or identify the business, shall be construed as a sign for the purpose of this Ordinance. National flags and flags of political subdivisions shall not be construed as signs.

Stable – A detached accessory structure including, but not limited to, a corral or paddock for the keeping of one or more horses owned by the occupants of the premises and which are not kept for remuneration, hire, or sale.

Stable, Commercial – A structure including, but not limited to, a corral or paddock for the keeping of horses for remuneration, or for sale.

Street – A right-of-way dedicated to the public use, which provides the principal vehicular and pedestrian access to adjacent properties.

Street Line – The boundary line between street right-of-way and abutting property.

Structure – Anything constructed or erected which requires a fixed location on the ground, including a building, but not including a fence or wall used as a fence.

Subdivision – Improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediate or future, into five (5) or more lots, tracts or parcels of land, or if a new street is involved, any such property which is divided into two (2) or more lots, tracts or parcels of land or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than two (2) parts. "Subdivision" also includes any condominium, cooperative, community apartment, townhouse or similar project containing five (5) or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or airspace above the property shown on the plat are to be divided.

Swimming Pool – Any permanent structure containing or intended to contain water for recreational uses including wading pools.

Travel Trailer – A portable structure without motive power with wheels built on a chassis, designed as a temporary dwelling for travel, recreation and vacation purposes, having a body width eight feet (8') and a body length not exceeding thirty two feet (32').

Use – The purpose for which a site or structure is arranged, designed, intended, constructed, moved, erected, altered or enlarged or for which either a site or structure is or may be occupied and maintained.

Use, Accessory – A use which is incidental, related, appropriate and clearly subordinate to the principal use of the lot or building, and which does not alter the principal use of the lot or building.

Use, Conditional – A use which is listed as a “Conditional Use” in any given zoning district. Such use shall require a “Conditional Use Permit” in order to establish within that zone district, and shall be subject to all conditions and requirements imposed by the Planning and Zoning Commission in connection with the “Conditional Use Permit”.

Use, Permitted – A use which is listed as a “Permitted Use” in any given zone district. Such use shall be allowed to establish within that zone district subject to the specific requirements of this Ordinance.

Variance – (See Section 304).

Warehouse – A building or buildings used for the storage of goods.

Wholesale – The sale of goods or materials for the purpose of resale.

Yard – The open and unoccupied space on a lot or parcel which is required by this Ordinance.

Yard, Front – A yard, extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

Yard, Rear – A yard, extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto.

Yard, Side – A yard, the width of which is the minimum required horizontal distance between the side lot line and a line parallel to it on the lot, not including any portion of required front yard or required rear yard.

Zone – A district classification established by this Ordinance which limits or permits various and specific uses.

Zoning Administrator – “Zoning Administrator” means the official responsible for the enforcement of this ordinance.

Chapter 17.12

PLANNING AND ZONING COMMISSION

Sections:

17.12.010 Establishment – Composition – Terms of members – Vacancies – compensation of members.
17.12.020 Powers and duties.
17.12.030 Selection of officers.
17.12.040 Quorum - Voting.
17.12.050 Rules and regulations – Records – Meetings.

17.12.010 Establishment – Composition – Terms of members – Vacancies – compensation of members

A. There is hereby established a Planning and Zoning Commission of the Town of Springerville to consist of seven (7) members, each of whom shall be a resident of the Town of Springerville, appointed by the Town Council. The members of the Commission shall serve for three (3) years except as hereinafter provided.

B. The members of the first commission appointed hereunder shall serve for the following terms: two (2) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and three (3) members shall be appointed for a term of three (3) years. In the event of a death, resignation or removal from the Commission, the vacancy shall be filled by appointment by the Council for the un-expired term. Members of the Commission may, after public hearing, be removed by the Council for inefficiency, neglect of duty, or malfeasance in office. The Council shall file a written statement of the reasons for removal. Three (3) unexcused absences during a term from any regular or special meeting shall be grounds for termination at the will and pleasure of the Council without the necessity of a hearing or notice, and such action shall be final. All members shall serve without pay. However, members may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the Commission and approval of such expenditures by the Town Council.

17.12.20 Powers and Duties

It shall be the duty of the Commission to formulate and administer any lawful plan duly adopted by the Council for the present and future growth and development of the Town of Springerville; to make or cause to be made a continuous study of the best present and future use to which land and buildings shall be put within the Town of Springerville, and to recommend to the Council revisions in such plans which, in the opinion of the Commission, are for the best interest of the citizens of the Town of Springerville; to hold public hearings where necessary; to make recommendations to the Council on all matters concerning or relating to the creation of zoning districts, the boundaries thereof, the appropriate regulations to be enforced therein, and amendments of this Ordinance; and to

undertake all activities usually associated therewith and commonly known as "Planning and Zoning". The Commission is also authorized to confer and advise with other City, County, Regional, or State planning agencies and commissions.

17.12.30 Selection of Officers

A. The Commission shall elect a Chairman and Vice-Chairman from among its' own members, who shall serve for one (1) year and until their successors are elected and qualified. The Chairman shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization.
B. The Chairman shall have the power to administer oaths and take evidence. The Vice-Chairman shall perform the duties of the Chairman in the chairman's absence or disability. Vacancies created by any cause shall be filled for the unexpired term by a new election.

17.12.040 Quorum – Voting

Four (4) members shall constitute a quorum. The affirmative vote of a majority of members voting shall be required for passage of any matter before the Commission. A member may abstain from voting only upon a declaration that he has a conflict of interest, in which case such member shall take no part in the deliberation on the matter in question.

17.12.50 Rules and regulations – Records – Meetings

The Commission shall make and publish rules and regulations to govern its' proceedings and to provide for its' meetings. All meetings of the Commission shall be open to the public. The minutes and records of all Commission proceedings shall be kept and filed as public record in the office of the Town Clerk.

Chapter 17.16

THE BOARD OF ADJUSTMENT, THE APPEALS PROCEDURE AND VARIANCES

Sections:

17.16.010 Creation and membership.
17.16.020 Powers and duties.
17.16.030 Meetings and rules.
17.16.040 Appeals.
17.16.050 Application for variance.
17.16.060 Public hearings.
17.16.070 Appeal of a decision made by a board of adjustment.

17.12.010 Creation and membership

The town council shall serve as the Board of Adjustment and shall perform all functions and duties of a board of adjustment as provided in ARS §9-462.06, until such time as the town council appoints a separate board of adjustment.

17.16.020 Powers and duties

A. Board of adjustment shall:
   1. Hear and decide appeals in which it is alleged there is an error in any order, requirement or decision made by the administrator in the enforcement of the zoning regulations, as described in Chapter 17.04.
   2. Hear and decide appeals for variances from the terms of the zoning regulations only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning regulations will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
   3. Reverse or affirm, wholly or partly, or modify the order, requirement or decision of the administrator appealed form, and make such order, requirement, decision or determination as necessary.

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

17.16.030 Meetings and rules

Meetings of the board of adjustment shall be held at the call of the chairman at such times deemed as is necessary for the transaction of business. All such meetings shall be open to the public. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such facts, and shall also keep records of its hearings and other official actions. A copy of every rule or regulation, every variation and every order, requirement decision, or determination or the board of adjustment shall be filed in the office of the administrator. The board of adjustment shall adopt its own rules or procedure and elect its own officers.

17.16.040 Appeals

An appeal to the board of adjustment concerning interpretation or administration of these regulations may be taken by any person aggrieved or by any officer, department, board or agency of the town affected by any decision of the administrator. Such appeal shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rule of the board of adjustment, by filing with the administrator and with the board of adjustment a notice of appeal specifying the grounds thereof. The administrator shall forthwith transmit to said board of adjustments all papers constituting the record upon which the action appealed from was taken. Such an appeal shall stay all proceedings in the matter appealed from unless the administrator from which the appeal is taken certifies to the board of adjustment that by reason of the fact stayed in the certificate, the stay would, in his opinion, cause imminent peril to the life or property. In such case proceedings shall not be stayed, except by a restraining order granted by said board of adjustment or by a court of record on application and notice to the administrator from whom the appeal is taken. Said board of adjustment shall fix a time for hearing the appeal and give notice thereof to the parties in interest and the public as set forth herein.

17.16.050 Application for variance

Application for any variance to these regulations shall be made to the board of adjustment. Such application shall be made on a form prescribed by said board of adjustment, shall be filed with the administrator and shall be accompanied by:

A. Accurate plot plans and description of the property involved, description of the proposed use, preliminary floor plans and elevations of all proposed buildings, and an estimate of the valuations of the proposed construction.
B. Evidence satisfactory to the board of adjustment of the ability and intention of the applicant to proceed with actual construction work in accordance with said plans within six months after allowing any variance.

17.16.060 Public hearings

A. Appeals. Upon receipt in proper form of appeals concerning interpretation of administration of these regulations, the board of adjustment shall hold a public hearing thereon after giving public notice thereof, as described in ARS

§9-462.06(F), as well as due notice to the parties in interest, and decide the same within a reasonable time.

B. Variance. Upon receipt in proper form of an application for any variance to the requirements of these regulations the board of adjustment shall hold a public hearing thereon after giving public notice thereof, as described in ARS § 9-462.06(F).

17.16.070 Appeal of a decision made by a board of adjustment

A person aggrieved by a decision of a board of adjustment may at any time within thirty (30) days of such decision file a civil complaint or a special action in the Apache County superior court for review of such decision.

Chapter 17.20

ZONING ADMINISTRATOR

Sections:

17.20.010 Creation and appointment.
17.20.020 Power and duties.

17.20.010 Creation and appointment

There is hereby created the office of Zoning Administrator of the Town of Springerville, who shall be appointed from time to time by the Town Council.

17.20.20 Power and duties

The Zoning Administrator shall:

A. Enforce the zoning ordinance.
B. Accomplish all administrative actions required by the Ordinance.
C. Undertake preliminary negotiation with, and provide advice to, all applicants for zoning adjustment action, use permits, plan review or other actions of the Zoning Administrator, the Planning and Zoning Commission or the Board of Adjustment.
D. Subject to general and specific policy laid down by the Planning and Zoning Commission and Town Council, interpret the Zoning Ordinance to members of the public, Town departments and other branches of government.

Chapter 17.24

ZONING DISTRICTS

Sections:

17.24.010 Establishment of Zoning Districts.
17.24.020 Location and Boundaries of Districts.

17.24.010 Establishment of Zoning Districts

In order to carry out the purposes of this Ordinance, the Town of Springerville is hereby divided into the following zoning districts:

"AG" Zone, General Agriculture (5 acre parcels)
"AR-43" Zone, Agricultural-Residential (43,000 sq. ft. lots)
"AR-20" Zone, Agricultural-Residential (20,000 sq. ft. lots)
"R1-20" Zone, Single Family Residential (20,000 sq. ft. lots)
"R1-7" Zone, Single Family Residential (7,500 sq. ft. lots)
"RMH-20" Zone, Single Family Residential and Mobile/Manufactured Homes (20,000 sq. ft. lots)
"RMH-7" Zone, Single Family Residential and Mobile/Manufactured Homes (7,500 sq. ft. lots)
"MF-7" Zone, Single Family Residential and Multiple Family Residential (7,500 sq. ft. lots)
"MHP" Zone, Mobile/Manufactured Home Parks
"C-1" Zone, General Commercial
"I-1" Zone, Industrial
"L-1" Zone, Light Industrial

17.24.020 Location and Boundaries of Districts

A. The locations and boundaries of the zoning districts are established as they are shown on the map entitled "The Zoning Map of the Town of Springerville" which is hereby incorporated into this Ordinance.
B. Where uncertainty exists with respect to the boundaries of any zoning districts as shown on the zoning map, the following rules shall apply:
   1. Where district boundaries are shown by specific dimensions, such specific dimensions shall apply.
   2. Where district boundaries are indicated as approximately following streets, alleys or right-of-way lines, the center line of such streets, alleys or right-of-way lines shall be deemed to be such boundaries.
   3. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be deemed to be said boundaries.
   4. Where district boundaries are so indicated that they are approximately parallel to the streets, alleys or right-of-way lines, such district boundaries shall be deemed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the zoning map.

Chapter 17.28

GENERAL PROVISIONS

Sections:

17.28.010 Application.
17.28.020 Use restrictions.
17.28.030 Redividing of recorded lots.
17.28.040 Yard, lot and area requirements.
17.28.050 Building height requirements.
17.28.060 Height limitations on corner lots.
17.28.070 Walls and fences.
17.28.080 Outdoor storage of junk automobiles.
17.28.090 Home occupations.
17.28.100 Animals and pets.
17.28.110 Exterior lighting.
17.28.120 Public service facilities.
17.28.130 Trash enclosures.
17.28.140 Structures near airplane runway or landing strip.
17.28.150 Performance standards.
17.28.160 Campgrounds.

17.28.010 Application

Except as herein provided, no building, structure or premise shall be used and no building or structure or part thereof shall be constructed, altered, repaired, improved, moved, removed, erected, demolished or materially altered except in conformity with these provisions and the provisions of the zone in which it is located. Any use that is not specifically allowed is hereby declared to be prohibited.

17.28.020 Use Restrictions

A. Permitted Uses: Those uses listed as “Permitted Uses” shall be allowed to establish within any zone district in which they are listed, subject to the specific requirements of this Ordinance. All other uses shall be prohibited exhibited except as otherwise provided in this Ordinance.

B. Conditional Uses: Those uses listed as “Conditional Uses” shall require “Conditional Use Permit” in order to establish within any zone district in which they are listed, and shall be subject to all conditions and requirements imposed by the Planning and Zoning Commission in connection with the “Conditional Use Permit”.

C. Accessory Uses: A use which is incidental, related, appropriate and clearly subordinate to the main use of the lot or building, and which does not alter the principal use of the lot or building, shall be allowed to establish within any given zone district, but may not be constructed more than six (6) months prior to the erection of the main building.

D. Unspecified Uses: Whenever a use is proposed which is not listed as a permitted or conditional use in any zone district, the Planning and Zoning Commission shall determine, through minute action, the appropriate zoning classification of such use. In making their determination the Planning and Zoning Commission shall consider similar uses which are listed in the code.

17.28.030 Redividing of Recorded Lots

No lot may be divided to create a lot not in conformance with these regulations. No lot shall be divided or combined in any manner other than through subdivision procedures as specified by the Subdivision Regulations of the Town of Springerville.

17.28.040 Yard, Lot and Area Requirements

A. Application: No building shall be erected, nor shall any existing building be altered, enlarged, moved or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the zone in which such building or open space is located, except as otherwise specifically provided.
B. Yards: Except as provided herein, every part of a required yard shall be open to the sky and unobstructed. Tree, shrubbery, etc., and accessory structures as allowed in this Ordinance, shall not be considered obstructions.
C. Projections Over and Into Required Yards:
   1. Awnings, open fire escape balconies, fire escape stairs, window-type refrigeration units, suspended or roof evaporative coolers and other similar features may project not more than five feet (5') over any required yard, provided that they shall be no closer than three feet (3') from any lot line.
   2. Architectural details such as canopies, cornices and eaves, may project not more than two feet (2') over any required yard provided that they shall be no closer than two feet (2') from any lot line.
   3. Sills, leaders, belt courses and similar ornamental features may project not more than six inches (6") over or into any required yard.
D. Patios and Steps: Unroofed terraces, patios, steps or similar features not over three feet (3') in height above grade, may project into any required yard, provided that they shall be no closer than two feet (2') from any lot line, except that a sidewalk and/or driveway may extend to the property line.
E. Accessory Buildings (Attached): A private automobile garage, carport or accessory building having any part of a wall in common with a dwelling shall be considered an integral part of the main building in determined yard, lot and area requirements.
F. Accessory Buildings (Detached) and Swimming Pools: Any detached accessory building or swimming pool in any zone shall not be located in the required front yard, shall be at least five feet (5') from the main structure, shall be at least five feet (5') from the rear and interior side lot lines, and shall maintain side yard setbacks from the street side lot lines as required for the main structure in that zone.

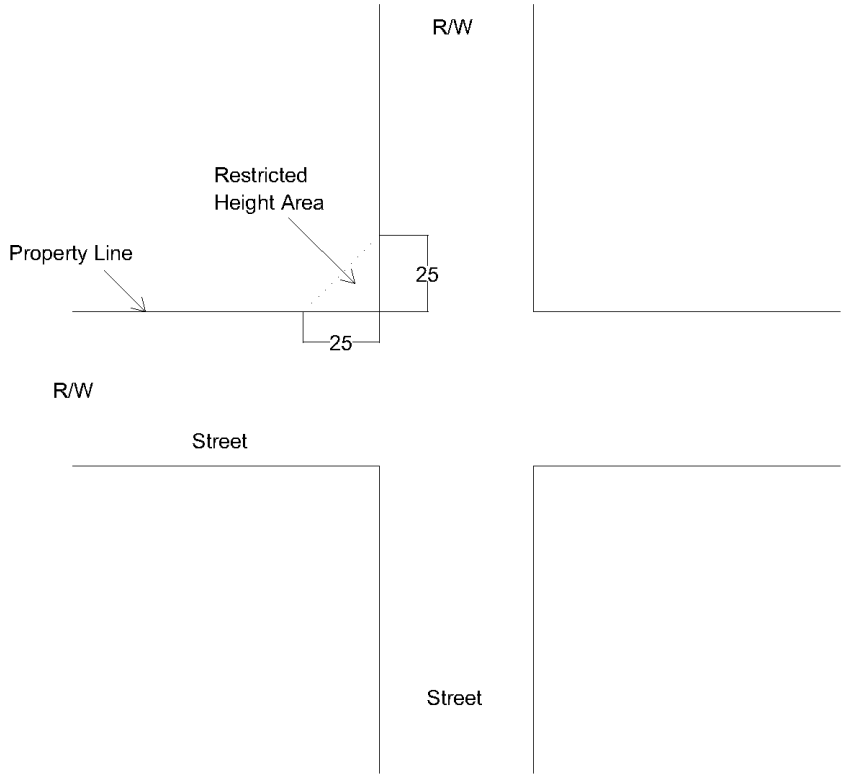
G. Solar Units: Solar heating and solar cooling units, solar greenhouses and associated apparatus may, notwithstanding any other provisions of this Ordinance, be located in a rear or side yard provided that such apparatus does not cover more than thirty percent (30%) of that side or rear yard and shall be no closer than two feet (2”) to any lot line.
H. Service Station Pumps and Storage of Inflammable Materials: No automobile service station pump shall be located closer than twelve feet (12’) to a street property line, and no combustible, inflammable, explosive or similar material, gas or liquid in excess of ten (10) gallons shall be stored within a distance of fifty feet (50’), (or a distance as required by the Springerville Fire Chief or other regulation) from a residential structure or property line, unless such material is used for domestic power or heating purposes on the same lot on which such material is stored.

17.28.050 Building Height Requirements

A. Application: No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located, except as otherwise specifically provided.
B. Exceptions: Height regulations established elsewhere in this Ordinance shall not apply:
   1. In any district, to church spires, belfries, cupolas and domes not for human occupancy; monuments, water towers, flagpoles; provided that such structures shall be so located and constructed that if it should collapse, its reclining length would still be contained on the property in which it was constructed.
   2. In any district, to non-commercial radio or television antennas.
   3. In industrial districts to chimneys, smokestacks, derricks, conveyors, grain elevators or similar structures wherein the industrial process involved customarily require a height greater than otherwise permitted, provided that such structures shall be so located and constructed that if it should collapse, its reclining length would still be contained on the property in which it was constructed.
   4. In any district to solar heating or cooling apparatus, the plans of which have been approved by the Zoning Administrator.

17.28.060 Height Limitations on Corner Lots

Within a triangle formed by the street front and side lot lines and a line connecting these lot lines at points measured along these lot lines a distance of twenty-five feet (25’) from their intersection, all fixtures, construction, hedges, shrubbery and other planting shall be limited to a height not over three feet (3’) above elevation of the street line level at the same intersecting streets. Within the same triangle, and in the cases where front yards are terraced, the ground elevation of such front yards shall not exceed three feet (3’) above the established street line elevation at the intersection of the streets.



17.28.070 Walls and Fences

A. Height: No wall, fence or hedge over three feet (3') high shall be constructed or maintained nearer to the street line than the required front or street-side building setback line except that fences over three feet (3') in height, but not more than six feet (6') in height, shall be allowed by Conditional Use Permit if they do not, in the opinion of the Commission cause a visibility hazard or nuisance.

   No wall, fence or hedge shall be more than six feet (6') in height in any rear or side yard, provided that fences exceeding the above heights may be built around school and other public and quasi-public institutions when necessary for the safety or restraint of the occupants thereof, or within Industrial, Agricultural or Agricultural-Residential Zoning Districts when a Conditional Use Permit has been secured for such purposes. These height regulations shall not apply when fences of greater heights are required by the Planning and Zoning Commission in order to provide adequate screening as required by this Ordinance.

B. Materials and Design: Fences and walls in all Zoning Districts shall be constructed of material in new condition only. Material must be wood, woven wire or masonry of conventional design. Fences or walls of other than specified material or of other than conventional design shall be allowed only

by Conditional Use Permit, except that fences constructed of pipe shall be allowed in any Agricultural or Agricultural-Residential zoning districts.

C. Swimming Pools: All swimming pools shall be enclosed by a solid wall, wood or chain link fence of not less than five feet (5') nor more than six feet (6') in height so as to prevent uninvited access.
D. Fees: No fee shall be charged for Conditional Use Permits concerning fences.

17.28.080 Outdoor Storage of Junk Automobiles

A. Definition: "Junk Automobiles" shall mean any vehicle or any major portion thereof which is incapable of movement under its own power and will remain so without major repair.
B. Outdoor Storage: Junk automobiles shall not be stored in the front of main structure and the rear lot line except as otherwise specifically allowed in a commercial or industrial zone district.

17.28.090 Home Occupations

Home occupations shall be permitted in any residential zones, subject to the following requirements:

A. Home Occupations shall be clearly incidental and subordinate to the use of the property and dwelling unit for dwelling purposes, shall be conducted entirely within the dwelling and shall not change the residential character thereof.
B. Area: No more than twenty-five percent (25%) of the gross floor area of the dwelling shall be devoted to the home occupation.
C. Employees: All employees except for a maximum of one (1) outside employee shall be members of the immediate family and shall reside on the premises.
D. Delivery Vehicles: No business shall be conducted which requires delivery vehicles or other services not customary to a residence.
E. Nuisances: There shall be no external evidence of the activity such as outdoor storage, displays, noise, dust, odors, fumes, vibration or other nuisances discernible beyond the property lines.

17.28.100 Animals and Pets:

A. Household Pets: Except as otherwise permitted in this Ordinance, the keeping of animals in connection with each dwelling shall not exceed a total of four (4) pets, such as dogs, cats and similar household pets exclusive of birds, fish or other pets which at all times are kept within a fully enclosed building or accessory building, and which do not create odor or sound detectable on an adjoining lot. Pets in excess of four (4) in number shall be allowed by Conditional Use Permit.
B. Non-household Animals: Animals other than household pets shall be prohibited except in those zoning districts in which they are specifically allowed. Non-household animals shall not be kept within one hundred feet

(100') of an occupied structure unless the said occupied structure is occupied by the owner or person in control of said animals.

17.28.110 Exterior Lighting

All lighting for off-street parking or loading areas or for the external illumination of buildings or signs shall be directed away from and shielded from any adjacent residential property and shall not detract from driver visibility on adjacent streets.

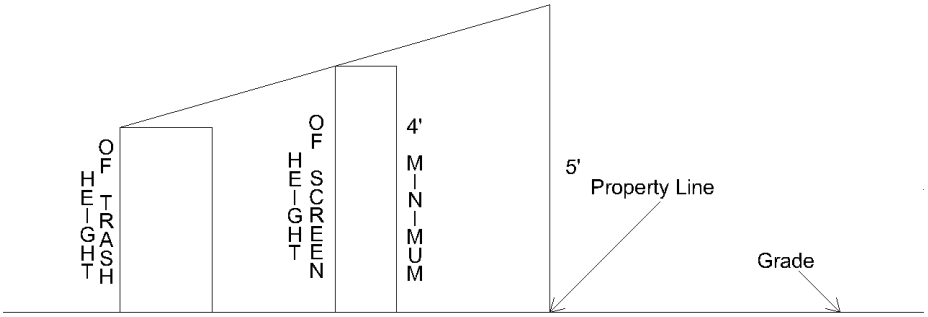
17.28.120 Public Service Facilities

A Conditional Use Permit shall be required by all Public Service Companies in order to establish or substantially expand utility buildings, structures or appurtenances thereto, in any zoning district. Extension of public service lines in public or private right-of-way is exempt from these requirements.

17.28.130 Trash Enclosures

A permanent enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for every use, other than single family dwelling, multiple family dwellings of less than four (4) units, and Mobile/Manufactured homes in every zoning district except where a mechanically-loaded steel bin approved by the Zoning Administrator is used for the purpose or where a property is entirely surrounded by screen walls or buildings. Trash enclosures shall comply with the following regulations:

A. Construction: Trash enclosures shall be constructed so that contents are not visible from a height of five (5) feet above grade from any abutting street or property, and shall be constructed of solid or ornamental pierced-masonry walls with solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be of sufficient height to conceal contents including containers, but in no case shall be less than four feet (4') in height above grade. Gates shall be solid or baffled, equal in height to the enclosure and equipped with latches to insure closure when not in use.
B. Location: Trash enclosures shall not be located in any required front or side yard.



17.28.140 Structures Near Airplane Runway or Landing Strip

Current Federal Aviation Administration (FAA) regulations and guidelines shall govern the location, placement, height, size and design of airplane runways and landing strips within the Town of Springerville.

17.28.150 Performance Standards

Any permitted or conditional use must conform to the following performance standards. In conjunction with the Plan Review process, the developer-applicant shall provide to the Zoning Administrator data which is sufficient to show that the proposed use and the manner of its' conduct will meet these performance standards.

A. Noise: No noise shall be permitted which is loud enough to create a nuisance or hazard beyond the property lines.
B. Smoke, Dust, Fumes, Vapors, Gases and Other Forms of Air Pollution: No emission is permitted which can cause damage to health, animals or vegetation, or other forms of property, or which can cause any excessive soiling.
C. Liquids and Solid Waste: No wastes will be discharged in the public sewage system which endangers the normal operation of the public sewage system.
D. Odors: No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be offensive in such a manner as to create a nuisance or hazard beyond the property lines.
E. Vibration: No vibration shall be permitted which is discernible beyond the lot line to the human sense of feeling for three (3) minutes or more in duration in any one (1) hour of the day between the hours of 7:00 a.m. to 7:00 p.m., or of thirty (30) seconds or more in duration in any one (1) hour during the hours of 7:00 p.m. and 7:00 a.m.

17.28.160 Campgrounds

A. Conditional Use Permit. Campgrounds shall be allowed only within those zones in which they are specifically allowed, and shall require a Conditional Use Permit issued by the Planning and Zoning Commission in accordance with the provisions of Section 302.

   The Commission shall ensure adequate provisions of streets, driveways, walkways, proper layout of campground, proper sanitary facilities, adequate fire protection, adequate protection of surrounding properties, adequate water supply and compliance with the provisions of this Ordinance and all other ordinances and codes of the Town of Springerville.
B. Site Specifications
   1. Sites must be clearly defined, well drained and reasonably level.
   2. Each tent site must be no less than nine hundred (900) square feet in area.
   3. Each recreational vehicle site must be no less than one thousand two hundred (1,200) square feet in area, and shall be designed to allow a minimum of fifteen feet (15') between adjoining recreational vehicles.

C. Office and Registration Facilities. Each campground must provide an adequate and easily identifiable office or registration area. Registration facilities must be located so as not to interfere with the normal flow of traffic in and out of the campground.

D. Restroom Facilities. Each campground must have the following restroom facilities as a minimum:

1. One (1) toilet for each ten (10) camping sites, or fraction thereof, excluding sites with sewer hookups use for self-contained recreational vehicles. There shall be a minimum of one (1) toilet provided for each men's and women's restroom regardless of number of campsites.
   Urinals may be provided for fifty percent (50%) of the toilet requirements of the men's restroom. Toilets shall be partitioned for occupant privacy.
2. One (1) hot water shower shall be provided for each ten (10) camping sites or fraction thereof. There shall be a minimum of one (1) shower for each men's and women's restroom regardless of number of campsites. Showers shall be partitioned for occupant privacy.
3. One (1) sink with hot water shall be provided for each ten (10) camping sites or fraction thereof. There shall be a minimum of one (1) sink for each men's and women's restroom regardless of number of campsites.
4. Each restroom shall contain shelf space and/or hooks adequate for toilet articles and towels, a good well-lighted mirror directly above each sink, an electric outlet convenient to the sink, ample general illumination, waste baskets, and windows and doors designed for complete privacy.

E. Maintenance. Campground must be well maintained in all areas. This includes the grounds, restroom facilities, buildings and any recreational areas and equipment.

Chapter 17.32

AG ZONE, GENERAL AGRICULTURAL

Sections:

17.32.010 Purpose.
17.32.020 Permitted uses.
17.32.030 Conditional uses (conditional use permit required).
17.32.040 Property development standards.
17.32.050 General provisions.
17.32.060 Signs.
17.32.070 Parking and loading.
17.32.080 Plan review.

17.32.010 Purpose

This district is intended to preserve agricultural areas with large lots (five (5) acres minimum) and very low density residential development. Land Use is composed of farming, agriculture, and livestock raising together with residences and customary accessory uses and buildings.

17.32.020 Permitted Uses

A. One (1) single-family dwelling or mobile/manufactured home per each five (5) acres of lot area.
B. One (1) guesthouse with not more than four (4) bedrooms.
C. Farming and agriculture including the keeping of cattle, horses, sheep, goats and fish ponds.
D. The keeping of fowl, not to exceed fifty (50) in number.
E. The keeping of pigs, not to exceed ten (10) in number over the age of six (6) months.
F. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
G. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of construction work.
H. Home Occupations.
I. Temporary stands for the sale of farm produce.
J. Veterinarian clinics.
K. Feed stores.
L. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
M. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.32.030 Conditional uses (conditional use permit required)

A. That keeping of fowl exceeding fifty (50) in number.

B. The keeping of pigs exceeding ten (10) in number over the age of six (6) months.
C. Publicly owned and operated parks and recreation areas and centers.
D. Churches or similar places of worship.
E. Schools – Public and private elementary and high.
F. Colleges, universities and professional schools.
G. Golf, rod and gun, tennis and country clubs.
H. Campgrounds.
I. Commercial stables.
J. Cemeteries.
K. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
L. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.32.040 Property development standards

A. Minimum lot area: 5 acres
B. Minimum Front Yard: 20 feet
C. Minimum Side Yard: 20 feet
D. Minimum Rear Yard: 20 feet
E. Minimum Dwelling Size: 800 square feet
F. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.

17.32.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.32.060 Signs

The provisions of Chapter 17.100 shall apply.

17.32.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.32.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.36

AR-43 ZONE, AGRICULTURE – RESIDENTIAL

Sections:

17.36.010 Purpose.
17.36.020 Permitted uses.
17.36.030 Conditional uses (conditional use permit required).
17.36.040 Property development standards.
17.36.050 General provisions.
17.36.060 Signs.
17.36.070 Parking and loading.
17.36.080 Plan review.

17.36.010 Purpose

This district is intended to promote and preserve agricultural areas, open spaces and very low density residential development. Regulations and property development standards are designed to protect the agricultural character of the district and to prohibit all incompatible activities. Land use is composed chiefly of individual homes on large lots (43,000 square feet minimum) and low intensity agriculture.

17.36.020 Permitted uses

A. One (1) single-family dwelling or mobile/manufactured home.
B. One (1) guest house with not more than four (4) bedrooms.
C. Farming and agriculture including the keeping of cattle, horses, sheep, goats, but not exceeding one (1) head per 20,000 square feet of lot area. The keeping of pigs is prohibited.
D. The keeping of fowl, not to exceed fifty (50) in number.
E. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
F. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
G. Home occupations.
H. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
I. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.36.030 Conditional uses (conditional use permit required)

A. The keeping of fowl exceeding fifty (50) in number.
B. Publicly owned and operated parks and recreation areas and centers.
C. Churches or similar places of worship.

D. Schools – Public and private elementary and high school.
E. Colleges, universities and professional schools.
F. Golf, rod and gun, tennis and country clubs.
G. Cemeteries.
H. Campgrounds.
I. Temporary home and land sales offices and model homes, provided they are located within the same subdivisions as that land or homes which are offered for sale.
J. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
K. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.36.040 Property development standards

A. Minimum lot area: 43,000 square feet.
B. Minimum Average Lot Width: 100 feet.
C. Minimum Lot Frontage: 100 feet.
D. Minimum Front Yard: 20 feet.
E. Minimum Side Yard: 20 feet.
F. Minimum Rear Yard: 20 feet.
G. Minimum Dwelling Size: 800 square feet.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: 75%.

17.36.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.36.060 Signs

The provisions of Chapter 17.100 shall apply.

17.36.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.36.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.40

AR-20 ZONE, AGRICULTURAL – RESIDENTIAL

Sections:

17.40.010 Purpose.
17.40.020 Permitted uses.
17.40.030 Conditional uses (conditional use permit required).
17.40.040 Property development standards.
17.40.050 General provisions.
17.40.060 Signs.
17.40.070 Parking and loading.
17.40.080 Plan review.

17.40.010 Purpose

This district is intended to promote and preserve agricultural areas, and low density residential development. Regulations and property development standards are designed to protect the agricultural character of the district and to prohibit all incompatible activities. Land use is composed chiefly of individual homes on medium sized lots (20,000 square feet minimum) and low intensity agriculture.

17.40.020 Permitted uses

A. One (1) single-family dwelling or mobile/manufactured home.
B. One (1) guest house with not more than four (4) bedrooms.
C. Farming and agriculture including the keeping of cattle, horses, sheep, goats, but not exceeding one (1) head per 20,000 square feet of lot area. The keeping of pigs is prohibited.
D. The keeping of fowl, not to exceed fifty (50) in number.
E. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
F. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
G. Home occupations.
H. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
I. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.40.030 Conditional uses (conditional use permit required)

A. The keeping of fowl exceeding fifty (50) in number.
B. Publicly owned and operated parks and recreation areas and centers.
C. Churches or similar places of worship.

D. Schools – Public and private elementary and high school.
E. Colleges, universities and professional schools.
F. Golf, rod and gun, tennis and country clubs.
G. Cemeteries.
H. Campgrounds.
I. Temporary home and land sales offices and model homes, provided they are located within the same subdivisions as that land or homes which are offered for sale.
J. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
K. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.40.040 Property development standards

A. Minimum lot area: 20,000 square feet.
B. Minimum Average Lot Width: 100 feet.
C. Minimum Lot Frontage: 100 feet.
D. Minimum Front Yard: 20 feet.
E. Minimum Side Yard: 20 feet.
F. Minimum Rear Yard: 20 feet.
G. Minimum Dwelling Size: 800 square feet.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: 75%.

17.40.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.40.060 Signs

The provisions of Chapter 17.100 shall apply.

17.40.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.40.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.44

R1-20 ZONE, SINGLE FAMILY RESIDENTIAL

Sections:

17.44.010 Purpose.
17.44.020 Permitted uses.
17.44.030 Conditional uses (conditional use permit required).
17.44.040 Property development standards.
17.44.050 General provisions.
17.44.060 Signs.
17.44.070 Parking and loading.
17.44.080 Plan review.

17.44.010 Purpose

This district is intended to promote and preserve low density single family residential development. Regulations and property development standards are designed to protect the single family residential character of the district and to prohibit all incompatible activities. Land use is composed chiefly of individual homes together with required recreational, religious and educational facilities.

17.44.020 Permitted uses

A. One (1) single-family dwelling. Mobile/manufactured homes are prohibited.
B. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
C. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
D. Home occupations.
E. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
F. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.44.030 Conditional uses (conditional use permit required)

A. Publicly owned and operated parks and recreation areas and centers.
B. Churches or similar places of worship.
C. Schools – Public and private elementary and high school.
D. Colleges, universities and professional schools.
E. Temporary home and land sales offices and model homes, provided they are located within the same subdivisions as that land or homes which are offered for sale.
F. Hospitals and clinics.
G. Golf Courses.

H. Nursery schools and Day Care Centers.
I. Cemeteries.
J. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
K. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.44.040 Property development standards

A. Minimum lot area: 20,000 square feet.
B. Minimum Average Lot Width: 100 feet.
C. Minimum Lot Frontage: 50 feet.
D. Minimum Front Yard: 20 feet.
E. Minimum Side Yard: 10 feet (except on a corner lot there shall be a street side yard equal to the front yard.
F. Minimum Rear Yard: 10 feet.
G. Minimum Dwelling Size: 1,200 square feet.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: 40%.

17.44.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.44.060 Signs

The provisions of Chapter 17.100 shall apply.

17.44.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.44.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.48

R1-7 ZONE, SINGLE FAMILY RESIDENTIAL

Sections:

17.48.010 Purpose.
17.48.020 Permitted uses.
17.48.030 Conditional uses (conditional use permit required).
17.48.040 Property development standards.
17.48.050 General provisions.
17.48.060 Signs.
17.48.070 Parking and loading.
17.48.080 Plan review.

17.48.010 Purpose

This district is intended to promote and preserve medium density single family residential development. Regulations and property development standards are designed to protect the single family residential character of the district and to prohibit all incompatible activities. Land use is composed chiefly of individual homes together with required recreational, religious and educational facilities.

17.48.020 Permitted uses

A. One (1) single-family dwelling. Mobile/manufactured homes are prohibited.
B. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
C. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
D. Home occupations.
E. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
F. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.48.030 Conditional uses (conditional use permit required)

A. Publicly owned and operated parks and recreation areas and centers.
B. Churches or similar places of worship.
C. Schools – Public and private elementary and high school.
D. Colleges, universities and professional schools.
E. Temporary home and land sales offices and model homes, provided they are located within the same subdivisions as that land or homes which are offered for sale.
F. Hospitals and clinics.

G. Golf Courses.
H. Nursery schools and Day Care Centers.
I. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
J. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.48.040 Property development standards

A. Minimum lot area: 7,500 square feet.
B. Minimum Average Lot Width: 70 feet.
C. Minimum Lot Frontage: 30 feet.
D. Minimum Front Yard: 20 feet.
E. Minimum Side Yard: 10 feet, except on a corner lot there shall be a street side yard equal to the front yard.
F. Minimum Rear Yard: 10 feet.
G. Minimum Dwelling Size: 800 square feet.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: 40%.

17.48.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.48.060 Signs

The provisions of Chapter 17.100 shall apply.

17.48.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.48.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.52

RMH-20 ZONE, SINGLE FAMILY & MOBILE/MANUFACTURED HOMES

Sections:

17.52.010 Purpose.
17.52.020 Permitted uses.
17.52.030 Conditional uses (conditional use permit required).
17.52.040 Property development standards.
17.52.050 General provisions.
17.52.060 Signs.
17.52.070 Parking and loading.
17.52.080 Plan review.

17.52.010 Purpose

This district is intended to promote and preserve low density single family residential development. Regulations and property development standards are designed to protect the residential character of the district and to prohibit all incompatible activities. Land use is composed chiefly of individual homes and mobile/manufactured homes together with required recreational, religious and educational facilities.

17.52.020 Permitted uses

A. One (1) single-family dwelling or one (1) Mobile/manufactured home.
B. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
C. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
D. Home occupations.
E. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
F. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.52.030 Conditional uses (conditional use permit required)

A. Publicly owned and operated parks and recreation areas and centers.
B. Churches or similar places of worship.
C. Schools – Public and private elementary and high school.
D. Colleges, universities and professional schools.
E. Temporary home and land sales offices and model homes, provided they are located within the same subdivision as that land and homes which are offered for sale.
F. Hospitals and clinics.

G. Golf Courses.
H. Nursery schools and Day Care Centers.
I. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
J. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.52.040 Property development standards

A. Minimum lot area: 20,000 square feet.
B. Minimum Average Lot Width: 100 feet.
C. Minimum Lot Frontage: 50 feet.
D. Minimum Front Yard: 20 feet.
E. Minimum Side Yard: 10 feet, except on a corner lot there shall be a street side yard equal to the front yard.
F. Minimum Rear Yard: 10 feet.
G. Minimum Dwelling Size: Non-mobile/manufactured single family: 800 sq. feet; Mobile/manufactured home: 600 sq. feet.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: 40%.

17.52.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.52.060 Signs

The provisions of Chapter 17.100 shall apply.

17.52.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.52.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.56

RMH-7 ZONE, SINGLE FAMILY & MOBILE/MANUFACTURED HOMES

Sections:

17.56.010 Purpose.
17.56.020 Permitted uses.
17.56.030 Conditional uses (conditional use permit required).
17.56.040 Property development standards.
17.56.050 General provisions.
17.56.060 Signs.
17.56.070 Parking and loading.
17.56.080 Plan review.

17.56.010 Purpose

This district is intended to promote and preserve low density single family residential development. Regulations and property development standards are designed to protect the single family residential character of the district and to prohibit all incompatible activities. Land use is composed chiefly of individual homes and mobile/manufactured homes together with required recreational, religious and educational facilities.

17.56.020 Permitted uses

A. One (1) single-family dwelling or one (1) Mobile/manufactured home.
B. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
C. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
D. Home occupations
E. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
F. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.56.030 Conditional uses (conditional use permit required)

A. Publicly owned and operated parks and recreation areas and centers.
B. Churches or similar places of worship.
C. Schools – Public and private elementary and high school.
D. Colleges, universities and professional schools.
E. Temporary home and land sales offices and model homes, provided they are located within the same subdivisions as that land and homes which are offered for sale.
F. Hospitals and clinics.

G. Golf Courses.
H. Nursery schools and Day Care Centers.
I. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
J. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.56.040 Property development standards

A. Minimum lot area: 7,500 square feet.
B. Minimum Average Lot Width: 70 feet.
C. Minimum Lot Frontage: 30 feet.
D. Minimum Front Yard: 20 feet.
E. Minimum Side Yard: 10 feet, except on a corner lot there shall be a street side yard equal to the front yard.
F. Minimum Rear Yard: 10 feet.
G. Minimum Dwelling Size: Non-mobile/manufactured single family: 800 sq. feet; Mobile/manufactured home: 600 sq. feet.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: 40%.

17.56.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.56.060 Signs

The provisions of Chapter 17.100 shall apply.

17.56.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.56.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.60

MF-7 ZONE, SINGLE FAMILY & MULTIPLE FAMILY

Sections:

17.60.010 Purpose.
17.60.020 Permitted uses.
17.60.030 Conditional uses (conditional use permit required).
17.60.040 Property development standards.
17.60.050 General provisions.
17.60.060 Signs.
17.60.070 Parking and loading.
17.60.080 Plan review.

17.60.010 Purpose

This district is intended to fulfill the need for multiple family residential development. Regulations and property development standards are designed to allow maximum flexibility and variety in residential development while prohibiting all incompatible activities. Land use is composed chiefly of individual homes and multiple-family homes together with required recreational, religious and educational facilities.

17.60.020 Permitted uses

A. One (1) single-family dwelling. Mobile/manufactured homes are prohibited.
B. Multiple family dwellings.
C. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
D. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
E. Home occupations.
F. Residential facilities for the developmentally disabled as described in Sections 36-581 and 36-582, Arizona Revised Statutes, which are licensed by the Department of Economic Security.
G. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.60.030 Conditional uses (conditional use permit required)

A. Publicly owned and operated parks and recreation areas and centers.
B. Churches or similar places of worship.
C. Schools – Public and private elementary and high school.
D. Colleges, universities and professional schools.
E. Nursery schools and Day Care Centers.
F. Boarding and Rooming Houses.
G. Nursing Homes and convalescent Homes.

H. Hospitals, clinics, medical and dental offices, professional offices such as lawyer, architect, accountant, etc.
I. Temporary home and land sales offices and model homes, provided they are located within the same subdivisions as that land or homes which are offered for sale.
J. Golf Courses.
K. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
L. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.60.040 Property development standards

A. Minimum lot area: 7,500 square feet.
B. Minimum Lot Area per Dwelling Unit:

Area of Lot	Min. Lot Average per Dwelling Unit
Up to 7,500 sq. ft.	3,750 sq. ft.
7,501 to 10,000 sq. ft.	3,000 sq. ft.
10,001 to 15,000 sq. ft.	2,500 sq. ft.
15,001 to 24,000 sq. ft.	2,000 sq. ft.
24,001 sq. ft. and over	1,500 sq. ft.

C. Minimum Average Lot Width: 70 feet.
D. Minimum Lot Frontage: 30 feet.
E. Minimum Front Yard: 20 feet.
F. Minimum Side Yard: 10 feet, except on a corner lot there shall be a street side yard equal to the front yard.
G. Minimum Rear Yard: 10 feet.
H. Minimum Dwelling Size:

Type of Dwelling Unit	Minimum Floor Area
Efficiency or Studio	400 sq. ft.
One Bedroom	600 sq. ft.
Two Bedroom	750 sq. ft.
Over Two Bedroom	750 sq. ft. plus 150 sq. ft. per additional bedroom over two.

I. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
J. Maximum Lot Coverage: 40%.

17.60.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.60.060 Signs
The provisions of Chapter 17.100 shall apply.

17.60.070 Parking and loading
The provisions of Chapter 17.104 shall apply.

17.60.080 Plan review
The provisions of Chapter 17.88 shall apply.

Chapter 17.64

MHP ZONE, MOBILE/MANUFACTURED HOME PARK

Sections:

17.64.010 Purpose.
17.64.020 Permitted uses.
17.64.030 Conditional uses (conditional use permit required).
17.64.040 Property development standards.
17.64.050 General provisions.
17.64.060 Signs.
17.64.070 Parking and loading.
17.64.080 Plan review.

17.64.010 Purpose

This district is intended to promote orderly planned development of Mobile/Manufactured home parks to accommodate Mobile/Manufactured homes and related accessory uses. Regulations are designed to preserve and protect the residential character of the district and ensure compatibility with adjacent districts.

17.64.020 Permitted uses

A. Mobile/Manufactured home parks.
B. One (1) Mobile/manufactured home per space in a Mobile/Manufactured home park.
C. Single-family residence for owner or manager of Mobile/Manufactured home park.
D. Customary accessory uses and buildings, provided such uses are incidental to the principal use.
E. Temporary buildings or uses incidental to construction work, which buildings shall be removed upon completion of or abandonment of the construction work.
F. Home occupations.

17.64.030 Conditional uses (conditional use permit required)

A. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.

B. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.64.040 Property development standards

A. Minimum Mobile/Manufactured Home Park Size: 5 acres.
B. Minimum Gross Site Area per Mobile/Manufactured Home: 4,000 sq. feet

C. Minimum Park Frontage: 100 feet.
D. Minimum Setback of any building or Mobile/Manufactured Home from any public property line: 20 feet.
E. Minimum Setback of any building or mobile/manufactured home from mobile/manufactured home park boundary: 15 feet.
F. Placement of mobile/manufactured home or building on individual site:
   1. Minimum setback from private access street: 10 feet.
   2. Minimum distance between mobile/manufactured homes:
      a. Between two opposing sides, and between a side and an opposing end: 25 feet.
      b. Between two opposing ends: 12 feet.
G. Minimum mobile/manufactured home size: 400 sq. feet.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Recreation Area:
   1. Eight hundred (800) sq. feet of "usable open space" shall be provided for each home space. "Usable open space" shall mean space which can be enjoyed by people. This could include landscaped plazas, grass and trees, fountains, sitting areas, etc. which is meant to provide an open garden atmosphere as approved by the Planning and Zoning Commission. Meaningful open space does not include parking areas, vacant or undeveloped lots or any other space which does not contribute to the quality of the environment.
   2. Where a centralized recreation area as approved by the Planning and Zoning Commission is provided, the "usable open space" may be reduced up to four hundred square feet (400) per mobile/manufactured home at the following ratio:
      For each square foot of recreational area, open space requirements may be reduced by three square feet (3). Recreational areas may include community use facilities, indoor recreational areas, swimming pools, hobby shops, etc.
J. Screening: All mobile/manufactured home parks shall be screened from any adjacent non-mobile/manufactured home development by a solid masonry or solid wood fence six (6) feet in height, or of a height or material as allowed or required by the Planning and Zoning Commission, subject also to the fence height regulations established in Section 404 of this Ordinance.
K. Driveways and Vehicular Access
   1. Mobile/manufactured home parks shall be located on or have direct access to a public street, except that no individual mobile/manufactured home space within the mobile/manufactured home park may have direct access to a public street.
   2. Any driveways shall have a minimum width of twenty-four (24') feet except when a driveway is located between trailer parking spaces, it shall have a minimum width of thirty feet (30').
   3. All driveways and interior streets shall be paved in a manner acceptable to the Town Engineer.

4. All plans and traffic engineering shall be subject to approval of the Town Engineer and shall be based upon the spacing and maneuverability requirements for sixty (60) foot long trailers.

L. Certificate of Occupancy and Business Licenses: No certification of occupancy or business license shall be issued until thirty (30) percent of the mobile/manufactured home spaces planned in any part, or ten (10) such spaces, whichever is greater, have been completely prepared, constructed and equipped for use in all respects.

M. Public Utilities: Each mobile/manufactured home shall be permanently connected to electric power, water supply, sewage disposal, gas and telephone service lines in compliance with applicable Town Codes, and all utility distribution and service lines shall be installed underground.

N. Skirting: All mobile/manufactured homes shall be skirted with fire resistant material which is not susceptible to rapid weathering.

O. Structural Requirements: (recently enacted legislation regarding tie-downs, foundations, supports, etc.).

17.64.050 General Provisions

The provisions of Chapter 17.28 shall apply.

17.64.060 Signs

The provisions of Chapter 17.100 shall apply.

17.64.070 Parking and loading

The provisions of Chapter 17.104 shall apply.

17.64.080 Plan review

The provisions of Chapter 17.88 shall apply.

Chapter 17.68

C-1 ZONE, GENERAL COMMERCIAL

Sections:

17.68.010 Purpose.
17.68.020 Permitted uses.
17.68.030 Conditional uses (conditional use permit required).
17.68.040 Property development standards.
17.68.050 General provisions.
17.68.060 Signs.
17.68.070 Parking and loading.
17.68.080 Plan review.

17.68.010 Purpose

This district is intended to provide for general commercial uses. Land use is composed chiefly of retail service businesses, together with accessory uses. The property development standards are designed to encourage orderly and compatible development in existing and future commercial areas within the Town.

17.68.020 Permitted uses

A. Retail sales of apparel and accessories, shows, dry goods, foods, drugs, flowers and plants, garden supplies, hardware, gifts and novelties, pet and hobby supplies, art and art supplies, jewelry, liquor, tobacco, newspapers and magazines, music and records, household supplies, stationary, books, paint, wallpaper and glass, sporting goods, toys, variety store goods, appliances, auto parts and supplies, furniture, office supplies, leather and leather products, carpet, antiques, fabrics, photo supplies and similar convenience goods.

B Repair services such as, but no more objectionable or intensive in character than watches, jewelry, shoes, locksmith, minor household appliances.

C. Personal services such as barbers, beauty shops, health clubs, laundries and cleaners.

D. Establishments serving food or beverages inside a building such as restaurants, cafes, coffee shops, bars, taverns, cocktail lounges. All outdoor sales and consumption of food and all drive-in facilities shall require a Conditional Use Permit.

E. Light manufacturing incidental to a permitted use is permitted provided all such manufacturing activities as well as related storage shall be conducted within a completely enclosed building unless specifically allowed otherwise in

this Ordinance. All such manufacturing activities shall be free from noise, odor or visible emissions when measured at the property line.

F. Second-hand stores, pawn shops and used furniture stores.

G. Banks, stock brokerage firms, savings and loans associations, loan companies and credit unions.

H. Governmental services, public utility offices and exchanges, excluding storage or repair services, provided all antennas which extend above the building height shall be by Conditional Use Permit.

I. Offices related to any of the following occupations: executive, administrative, professional, accounting, banking, writing, clerical, stenographic, graphic art, real estate, lawyer, architect and engineer.

J. Medical and dental offices and clinics.

K. Establishments primarily supplemental in character to other permitted principal uses, such as pharmacy, apothecary shop, sales of corrective garments, prosthetic devices and optical goods, medical and dental laboratories.

L. Business and trade schools, dancing, art and music schools.

M. Gasoline service stations.

N. Indoor and outdoor sales of nursery stock.

O. Hotels and motels.

P. Hospitals and clinics.

Q. Customary accessory buildings, structures, and uses provided they are incidental to a permitted use.

R. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety, and general welfare.

17.68.030 Conditional uses (conditional use permit required)

A. Establishments serving food or beverages outside of a closed building and drive-in facilities.
B. Mortuaries.
C. Radio and TV studios.
D. All commercial broadcasting and receiving antennas.

E. Establishments whose principal function is basic research, design, and pilot or experimental product development, provided such activities are conducted within a completely enclosed building.
F. Headquarter buildings or charitable, philanthropic and welfare organizations provided that their primary activities are administrative and clerical rather than residential in nature.
G. Indoor commercial recreation establishments such as bowling alleys, billiard parlors and skating rinks.
H. Indoor theaters, assembly halls, ballrooms and lodges.
I. Taxi stand, bus stop, public parking lots and garages.
J. New and used automobile, truck, mobile/manufactured home and agricultural equipment sales.
K. Wholesale establishments.
L. Lumber yards and building supplies.
M. Automobile repair garages.
N. Pet shops.
O. Veterinary clinics and kennels.
P. Residences and uses as allowed in the MF-7 Zone, subject to property development standards of the MF-7 Zone.
Q. Mobile/manufactured home parks, subject to the property development standards of the “MHP” Zone.
R. Outdoor commercial recreation establishments.
S. Drive-in theaters.
T. Construction Yard and Equipment Yard.
U. Public utility buildings, structures or appurtenances thereto for public service use. Extension of public service lines in public or private right-of-way is exempt from this requirement.
V. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.68.040 Property development standards

A. Minimum lot area: 7,500 square feet.
B. Minimum Average Lot Width: 70 feet.
C. Minimum Lot Frontage: 30 feet.
D. Minimum Front Yard: 10 feet.
E. Minimum Side Yard: 5 feet, except on a corner lot, there shall be a street side yard equal to the front yard. Yards of less than 5 feet may be allowed by a Conditional Use Permit.
F. Minimum Rear Yard: 5 feet, except yards of less than 5 feet may be allowed by a Conditional Use Permit.
G. Minimum Dwelling Size: None.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: None.

J. Screening: All commercial uses shall be screened from any adjacent non-commercial or non-industrial zone by a solid masonry or solid wood fence six (6) feet in height, or of a height or material as allowed or required by the Planning and Zoning Commission, subject also to the fence height regulations established in Section 404 of this Ordinance.

17.68.050 General Provisions
The provisions of Chapter 17.28 shall apply.

17.68.060 Signs
The provisions of Chapter 17.100 shall apply.

17.68.070 Parking and loading
The provisions of Chapter 17.104 shall apply.

17.68.080 Plan review
The provisions of Chapter 17.88 shall apply.

Chapter 17.72

I-1 ZONE, INDUSTRIAL

Sections:

17.72.010 Purpose.
17.72.020 Permitted uses.
17.72.030 Conditional uses (conditional use permit required).
17.72.040 Property development standards.
17.72.050 General provisions.
17.72.060 Signs.
17.72.070 Parking and loading.
17.72.080 Plan review.

17.72.010 Purpose

This district is intended to provide for and encourage commercial, industrial and manufacturing development within the Town, while ensuring that such activities will in no manner affect in a detrimental way in any of the surrounding districts.

17.72.020 Permitted uses.

A. Any permitted or conditional use in the “C-1” Zone, except residences and mobile/manufactured homes.
B. Warehouses.
C. Outdoor storage yards and junk yards.
D. Automobile wrecking yards.
E. Heavy construction equipment yards.
F. Industrial and manufacturing establishments.
G. Accessory buildings, structures and uses customarily incidental to a permitted use.
H. Sand and gravel plants, mines, batch plants, concrete plants and similar uses.
I. Public utility buildings, structures or appurtenances thereto for public service use.
J. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.72.030 Conditional uses (conditional use permit required).

A. Residences for the owner, manager or watchman for an allowed use.
B. Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare.

17.72.040 Property development standards.

A. Minimum lot area: None.
B. Minimum Average Lot Width: None.

C. Minimum Lot Frontage: None.
D. Minimum Front Yard: None.
E. Minimum Side Yard: None.
F. Minimum Rear Yard: None.
G. Minimum Dwelling/Building Size: None.
H. Maximum Building Height: 25 feet, except that heights over 25 feet may be allowed with a Conditional Use Permit.
I. Maximum Lot Coverage: None.
J. Screening: All commercial uses shall be screened from any adjacent non-commercial or non-industrial zone by a solid masonry or solid wood fence six (6) feet in height, or of a height or material as allowed or required by the Planning and Zoning Commission, subject also to the fence height regulations established in Section 404 of this Ordinance.

17.72.050 General Provisions
The provisions of Chapter 17.28 shall apply.

17.72.060 Signs
The provisions of Chapter 17.100 shall apply.

17.72.070 Parking and loading
The provisions of Chapter 17.104 shall apply.

17.72.080 Plan review
The provisions of Chapter 17.88 shall apply.

Chapter 17.76

L-1 ZONE, LIGHT INDUSTRIAL

Sections:

17.76.010 Purpose.
17.76.020 Uses.
17.76.030 Property development standards.
17.76.040 Additional regulations.

17.76.010 Purpose

The Light Industrial district is designed to provide for the wide range of industrial businesses involved administrative and office uses, research, warehousing, light manufacturing, wholesaling, and assembling. The General Industrial District (L-1) is intended to permit most other industrial uses, including manufacturing, bulk storage and concentrated production.

17.76.020 Uses

The uses permitted, conditionally permitted or prohibited in the two industrial districts are listed in the following chart. Permitted Uses are designated as “PU”, Conditional Uses, which require approval by the Springerville Planning and Zoning Commission, are specified by “CU”, uses which are not permitted in a district are designated as “NP”.

Light Industrial District L-1	Uses
NP	Residential uses, both permanent & mobile/manufactured homes.
NP	Non-residential uses permitted in N-C, including conditional uses.
NP	Non-residential uses permitted in C-1, including conditional uses.
NP	One permanent residence for caretaker on industrial premises.
PU	Offices and administrative headquarters.
PU	Industrial, scientific or business research, development and testing laboratories and offices.
PU	Computer centers.
PU	Warehouses and mini-storage warehouses.
PU	Electronic instruments and devices, assembling and manufacturing.
PU	Motion picture, TV and radio studios and broadcasting equipment.
CU	Outdoor storage yards.

NP	Automobile wrecking yards and junk yards.
NP	Heavy construction equipment yards.
CU	Industrial and manufacturing establishments in enclosed buildings.
CU	Industrial and manufacturing establishments, outdoor uses.
NP	Sand and gravel plants, mines, batch plants, concrete plants and similar uses.
NP	Bulk storage of petroleum and gas products.
CU	Airports and helicopter ports.
CU	Public utility buildings, structures and appurtenances.
CU	Any other uses determined by the Planning and Zoning Commission to be similar to those listed above and not detrimental to the public health, safety and general welfare.

17.76.030 Property development standards

A.

Light Industrial District L-1	**Development Standards**
1. 23,000 sq. ft.	Minimum lot area
2. 150’	Minimum Average Lot Width
3. 150’	Minimum Lot Frontage
4. 30’	Minimum Front Yard
5. 30’	Minimum Street Side Yard
6. 20’	Minimum Side Yard
7. 20’	Minimum Rear Yard
8. 30 feet	Maximum Building Height

B. Additional Performance Standards

1. Structures near airplane runway or landing strips shall comply with current FAA regulations and guidelines as to placement height and size.
2. No noise shall be permitted which is loud enough to create a nuisance or hazard beyond the property line.
3. No uses shall be permitted which may cause damage to the health, safety or welfare of persons, animals, vegetation, or other property
4. No substances may be discharged into the Town sewer system which may cause damage to the Town sewer system or which will adversely affect the operation of the Town sewerage treatment plant as set forth in the Springerville Town Code, Chapter 13, Article 13-7, as amended.
5. No emission or odorous gases or other odorous matter shall be permitted in such quantities as to be offensive in such a manner as to create a nuisance or hazard beyond the property line.
6. No vibration shall be permitted which is discernible beyond the lot line to the human sense of feeling for three minutes or more duration in any one hour of the day between the hours of 7:00 a.m. to 7:00 p.m., or thirty (30)

seconds or more duration in any one hour during the hours of 7:00 p.m. and 7:00 a.m.

17.76.040 Additional regulations.

A. General provisions, screening requirements and performance standards, Section 17.28.070.
B. Parking and loading, Section 17.32.070.
C. Signs, Section 17.32.060.
D. Procedures, chapters 17.80 through 17.92. All industrial uses and commercial uses, shall be required to comply with site plan review procedures as stipulated in Section 17.88.

Chapter 17.80

AMENDMENTS OR ZONE CHANGES

Sections:

17.80.010 Purpose.
17.80.020 Petitions and amendments.
17.80.030 Commission action.
17.80.040 Council action.
17.80.050 Reconsideration of denied amendments.
17.80.060 Exceptions.

17.80.010 Purpose

The Council may, from time to time, for public necessity, convenience, general welfare, or good zoning practice requirements, change the district boundaries, or amend, change, repeal, or supplement the regulations herein established. Such change or amendment may be initiated by the Council or the Planning and Zoning Commission on its' own motion, or by petition of one or more owners of real property within the area proposed to be changed.

17.80.020 Petitions and amendments

A. Petitions for change of district boundaries or amendments of regulations shall be filed with the Zoning Administrator by an owner of real property within the area proposed to be changed, or by the Council or Commission. In the case of a petition filed by a party other than the Council or Commission requesting a zoning district change which includes other property in addition to that owned by the petitioner, the petition shall include the signatures of the real property owners representing at least seventy-five percent (75%) of the land in the area proposed to be changed. All such petitions shall be filed on a form provided for the purpose and shall include:
   1. A map showing the particular property or properties for which the change of zone is requested and substantially the adjoining properties and the public streets and ways within a radius of three hundred feet (300') of the exterior boundaries thereof.
   2. A Tentative Development Plan which shall show the following:
      a. Topographical description showing existing and proposed grades and drainage systems, and natural and man-made features with indication as to which one is to be retained and which one is to be removed or altered.
      b. Proposed street system.
      c. Proposed block layouts.
      d. Proposed reservation for parks, parkways, playgrounds, recreation areas and other open spaces.
      e. Off-street parking space.
      f. Types and uses of structures.
      g. Location of structures, garages and/or parking spaces.

h. A tabulation of the total number of acres in the proposed project and a percentage thereof designated for the proposed structures.
i. Preliminary plans and elevations of the structure types.

3. Reasons justifying the petition.
4. A true statement relating any conditions or restriction of record (if any) which would affect the permitted uses of the property if rezoned as requested, and that date or dates (if any) of expiration thereof.
5. Such photographs, drawings and other supporting documents (if any) as the applicant may desire to present.
6. Payment of a filing fee in an amount established by a schedule adopted by ordinance or resolution of the Council and filed in the offices of the Town Clerk. No part of the filing fee shall be returnable. Payment of filing fee shall be waived when the change or amendment is initiated by the Council or the Commission, or when the petitioner is the Town, County, State, or Federal government.

B. Under certain circumstances where the nature of the permitted or conditional use is such that it would be unnecessary or economically unfeasible for the applicant to prepare a plan in accordance with above requirements, the Zoning Administrator may waive certain of the above requirements, but in all cases the applicant will be required to submit some type of site plan drawn to scale.
C. Upon receipt of a completed application for amendment, the Zoning Administrator shall forward the application to the Planning and Zoning Commission.
D. Any plan approved by the Zoning Administrator under the provisions of Section 303 must substantially conform to the Tentative Development Plan submitted as part of the petition for a change of district boundaries.

17.80.030 Commission action

A. Upon receipt of any completed application for amendment, the Commission shall fix a reasonable time for the hearing of the proposed zone change, amendment or addition, and shall give notice thereof to interested parties and to the public by publication in the official newspaper of the Town, and by posting the area included in the proposed change, not less than fifteen (15) days prior to the hearing. The notice shall set forth the time and place of the hearing including a general explanation of the matter to be considered and including a general description of the area affected. The Commission may for any reason, when it deems such action necessary or desirable, continue such hearing to a time and place certain. Within thirty (30) days after the close of the hearing, the Commission shall render its decision in the form of a written recommendation to the Council. The recommendation shall include the reason(s) for the recommendation.
B. Prior to publishing a petitioned Zoning Map change, the Commission may, on its own motion, delimit or extend the boundaries of such area, so as to constitute a more reasonable zone district boundary.

C. In the case of proposed amendments which are initiated by the Commission, the Commission shall hold a public hearing as required by this section and shall either:
   1. Transmit such proposal to the Council which shall thereupon proceed as set forth herein for any other amendment; or
   2. Vote to quash the Commission initiated proposal, in which case no further action need be taken by the Commission or Council.
D. The Commission may recommend to the Council that a time limit be established for the development of the proposal for which a rezoning is conditionally approved.

17.80.040 Council action

A. Once the Commission has held a public hearing, the Council may adopt the recommendations of the Commission without holding a public hearing if there is no objection, request for public hearing or other protest.
   The Council shall hold a public hearing if requested by the party aggrieved or any member of the public or of the Council. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the Commission as specified in Subsection C. In addition, the Town may give notice of the hearing in such other manner as it may deem necessary or desirable.
B. If the owners of twenty percent (20%) or more, either of the area of the lots included in a proposed change or of those immediately adjacent in the rear or any side thereof extending one hundred fifty feet (150') therefrom, or of those directly opposite thereto extending one hundred fifty feet (150') from the street frontage of the opposite lots, file a protest in writing against a proposed amendment, it shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the Council. If any members of the Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths (3/4) of the remaining membership of the Council providing that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body.
C. If the Council's recommendation is to overrule the recommendation of the Commission, such decision shall require the vote of three fourths (3/4) of all members of the Council voting on the question.
D. The Council shall not make any changes in any proposed zone district boundaries or zone district classification recommended by the Commission, until such proposed changes have been referred back to the Commission for a report. Failure of the Commission to file a report back to the Council within thirty (30) days from the date to receipt of the recommended changes shall be deemed to be approval of the proposed changes(s) as recommended by the Council.
E. At the time of rezoning, the Council may establish a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use

for which it was conditionally approved, it shall revert to its former zoning classification without legislative action.

17.80.050 Reconsideration of denied amendments

In the event that a petition for an amendment is denied by the Council, or is withdrawn after the Commission hearing, the Commission shall not consider the petition or any other petition for the same amendment of this Ordinance as it applies to the same property described in the original petition, or any part thereof, within a period of one (1) year from the date of such denial action, unless the conditions upon which the original denial was based have changed.

17.80.060 Exceptions

In the event that a request for amendment concerns only the amendment of general requirements of this Ordinance, no signature of affected property owners or posting of property shall be required; provided however, that all other provisions of this Section shall be complied with.

Chapter 17.84

CONDITIONAL USE PERMITS

Sections:

17.84.010 Purpose.
17.84.020 General regulations.
17.84.030 Conditional use permit application.
17.84.040 Commission action and findings.
17.84.050 Appeals.
17.84.060 Time limits.
17.84.070 Revocation.
17.84.080 Fees.

17.84.010 Purpose

Every zoning district contains certain buildings, structures and uses of land which are normal and complementary to Permitted Uses in the district, but which, by reason of their typical physical or operational characteristics, influence on the traffic function of adjoining streets or similar conditions, are often incompatible with adjacent activities and uses. It is the intent of this Ordinance to permit conditional uses in appropriate zoning districts, but only in specific locations within such district(s) that can be designated and developed in a manner which assures maximum compatibility with adjoining uses. It is the purpose of this Section to establish principles and procedures essential to proper guidance and control of such uses.

17.84.020 General regulations

A. Zoning district regulations established elsewhere in this Ordinance specify that certain buildings, structures and uses of land may be allowed by the Commission as conditional uses in a given district, subject to the provisions of this Section and to requirements set forth in district regulations. The Planning and Zoning Commission is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon them.
B. Any building, structure or existing use on the effective date of this Ordinance which is reclassified as a Conditional Use by this Ordinance for the district in which it is located shall be considered as meeting the conditions which would otherwise be imposed upon such use by this Ordinance, and its continuance shall not be subject to issuance of a Conditional Use Permit; provided however, to the extent that such fails to conform to the requirements of this Ordinance, it shall be considered non-conforming as described in Section 403, and its continuance shall be governed by all non-conforming use regulations applicable thereto.
C. Every Conditional Use Permit issued shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. Upon completion and final inspection by the Zoning Administrator of any authorized structures, signifying that all zoning and site development

requirements imposed in connection with the permit have been satisfied, the Conditional Use Permit shall thereafter be transferable and shall run with the land, whereupon the maintenance of special conditions imposed by the Permit, as well as the compliance with other provisions of this Ordinance, shall be the responsibility of the property owner.

17.84.030 Conditional use permit application

Application for a use permit shall be filed with the Zoning Administrator on a form prescribed by the Commission. The application shall be forwarded to the Planning and Zoning Commission by the Zoning Administrator, and when required by the Commission, shall be accompanied by a detailed site plan prepared in accordance with Section 303 showing all information necessary to demonstrate that the proposed use will comply with all special conditions as well as other regulations and requirements of this Ordinance. The applicant shall furnish the Commission any additional information it may consider relevant to the investigation of the case.

17.84.040 Commission action and findings

A. It is the express intent of this Ordinance that any use for which a Conditional Use Permit is required shall be permitted in the particular zoning district, provided that all special conditions and requirements of this Ordinance are met. Therefore, the action of the Commission shall be one of approval or denial based upon its judgment as to whether the specified conditions have been or will be met. The Commission shall consider not only the nature of the use and the special conditions influencing its location in the particular district, but also the proposed location of buildings, parking and other facilities within the site, the amount of traffic likely to be generated and how it will be accommodated, and the influence that such factors are likely to exert on adjoining properties. The Commission may make such suggestions as it considers desirable and shall provide all possible guidance to the applicant in his preparation of application, plans and data in such manner as to satisfy the intent of this Section.
B. Notice of the nature of the Conditional Use Permit Application and the date of the meeting at which it will be considered shall be posted on the property, and shall be mailed to the owners of all real property within three hundred feet (300') of the property for which application is made.
C. The Commission shall consider the application at their next regular meeting if the application was filed at least fifteen (15) days prior to such meeting. Otherwise it shall be carried over until the next regularly scheduled meeting. The Commission may reach a decision, continue the matter to a specified date (but not later than the next regularly scheduled meeting), or may set the matter for public hearing. If the Commission does set the matter for public hearing, notice thereof shall be given to the public by publication of a notice in the official newspaper of the Town and by posting the property included in the application, not less than fifteen (15) days prior to the hearing. It shall be the responsibility of the applicant to maintain the posting. The notice shall set

forth the time and place of the hearing and include a general explanation of the matter to be considered and a general description of the area affected.

D. In order to grant any use permit, the findings of the Commission must be that the establishment, maintenance or operation of the use or building applied for, will not be detrimental to the public health, safety, peace, convenience, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town.

E. The Commission may designate such conditions in connection with the use permit as it deems necessary to secure the intent and purposes of this Ordinance, and may require such guarantees and evidence that such conditions are being or will be complied with.

F. If the Commission finds that the application and supporting data does not indicate that all applicable conditions and requirements of this Ordinance will be met, it shall deny the permit. Notice of Denial, including reasons therefore, shall be mailed to the applicant at the address shown in the application, and the Commission shall report its actions to the Council at its next regular meeting.

G. If the Commission approves the application, it shall direct the Zoning Administrator to issue a Conditional Use Permit setting forth all conditions and requirements governing such use, shall make the approved site plan a part of the record of the case, and shall report its actions to the Council at the next regular meeting. Failure of the applicant to comply with the conditions and safeguards which are a part of the terms under which a Conditional Use Permit is granted, shall be deemed a violation of this Ordinance and punishable under Section 108.

17.84.050 Appeals

A. Any person may file an appeal with the Town Council over any decision of the Planning and Zoning Commission regarding the granting or denying of use permits. If no appeal is filed with Council within fifteen (15) days after Commission action, the action of the Commission shall be considered final.

B. When a written appeal is filed with the Town Clerk, the Council shall evaluate the request at their regular meeting and may approve or deny it. The Council may elect to set the matter for a public hearing, and if such action is taken, a legal notice shall be published at least once in the official newspaper of the Town at least fifteen (15) days prior to the hearing date, and the property included in the application shall be posted at least fifteen (15) days prior to the hearing date. Notice shall be given to the Planning Commission of such appeal and the Commission shall submit a report to the Council setting forth the reason for its action taken. The Commission shall be represented at the hearing by the Commission Chairman or his designee.

C. The Council shall within fifteen (15) days after their regular meeting or public hearing, either uphold the action of the Planning and Zoning Commission, reverse that action or make a decision of its own.

D. If the Council makes a decision which upholds granting of a permit, the Council may designate such conditions in connection with the permit as it deems necessary to secure the intent and purpose of this Ordinance, and require such guarantees and evidences that such conditions are being or will be complied with.
E. The Council's decision shall be final and shall become effective immediately. Notice of the decision shall be mailed to the applicant at the address shown on the application.

17.84.060 Time limits

A. Use permits become effective fifteen (15) days after approval by the Planning Commission, but in the event an appeal is filed, said permit shall not become effective until a decision is arrived at by the Town Council.
B. Any use permit issued by the Planning and Zoning Commission shall be commenced within six (6) months from the date of approval, and diligently pursued, otherwise it shall become null and void. The Commission shall establish a time limitation for all use permits and at the termination of this time limit, the Commission shall reconsider said use permit to determine if the permit should be reissued for an additional time period or be terminated.
C. No person shall reapply for the same or substantially the same use permit on the same or substantially the same plot, lot or parcel of land within a period of one (1) year from the date of denial or revocation of said use permit.

17.84.070 Revocation

A. Use permits granted in accordance with the provisions of this Ordinance may be revoked if any of the conditions or terms of the permit are violated, or if any law or ordinance is violated in connection therewith. The Zoning Administrator shall notify the permittee of a violation or termination of a use permit by mail. If no attempt to change the violation is made within ten (10) days after notification, the permit shall be removed and considered null and void.
B. Any use permit issued by the Planning and Zoning Commission all be considered null and void if construction does not conform to the originally approved site plan. Any deviations requested from the originally approved site plan, shall be processed as a new use permit.

17.84.080 Fees

The application for a Conditional Use Permit shall be accompanied by a filing fee in an amount established by a schedule adopted by ordinance or resolution of the Council Fee Schedule and filed in the office of the Town Clerk. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is the Town, County, State or Federal Government.

Chapter 17.88

PLAN REVIEW

Sections:

17.88.010 Purpose.
17.88.020 Application for plan approval.
17.88.030 Exception.
17.88.040 Fee.
17.88.050 Review procedures.
17.88.060 Appeals.
17.88.070 Expiration of plan approval.
17.88.080 Violation and enforcement.

17.88.010 Purpose

The purpose of the plan review is to enable the Zoning Administrator to make a finding that the proposed development is in conformity with the intent and provisions of this Ordinance and all other Town Ordinances. The provisions of this Section shall apply to the permitted and conditional uses as specified for each zoning district.

17.88.020 Application for plan approval

A request for plan approval shall be filed with the Zoning Administrator on a form prescribed by the Administrator. The request for approval shall be accompanied by four (4) identical copies of the plan. Each copy shall be one (1) or more sheets of paper measuring not more than 24” x 36”, drawn to a scale and not smaller than forty (40’) feet to the inch, which show the following:

A. Lot dimensions.
B. Location, size, height, use and exterior materials of all buildings and structures.
C. Size and dimensions of yards and space between buildings.
D. Location and height of walls and fences.
E. Location, number of spaces, dimensions, circulation patterns and surface materials for all off-street parking and loading areas, driveways, access ways and pedestrian walkways.
F. The location, dimensions, area, materials and lighting of signs.
G. Location and general nature of lighting.
H. Street dedications and improvements.
I. Existing and proposed grades and drainage systems.
J. The size and location of all existing and proposed public and private utilities. All easements must be shown.
K. Natural features such as mesas, rock outcroppings or streams and man-made features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered.
L. Landscaping, including all surfacing material around buildings and in all open spaces.

M. A vicinity sketch showing the location of the site in relation to the surrounding street system. Adjacent properties and their uses shall Be identified.
N. A legal description of the land included in the site plan and of the lot; the name, address and telephone number of the owner, developer and designer.
O. Any other information which the Zoning Administrator may find necessary to establish compliance with this and other ordinances.

17.88.030 Exception

Under certain circumstances where the nature of the permitted or conditional use is such that it would be unnecessary or economically unfeasible for the applicant to prepare a plan in accordance with the above requirements, the Zoning Administrator may waive certain of the above requirements, but in all cases the applicant will be required to prepare and submit some type of site plan drawn to scale.

17.88.040 Fee

The application for Plan Approval shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the Town Clerk. No part of the filing fee shall be returnable. Payment of filing fee shall be waived when the petitioner is the Town, County, State or Federal government.

17.88.050 Review procedures

A. The Zoning Administrator shall have ten (10) working days from submission of the plan application to review said plan and approve, conditionally approve or reject said plan based on its compliance with all provisions of this Ordinance, all other ordinances and Master Plans of the Town of Springerville, and to notify the applicant of his/her decision in writing. If however the Zoning Administrator wishes to obtain the opinion of the Planning and Zoning Commission he may at his discretion, forward the plan to the Commission for action at their next regular meeting. In such case the Zoning Administrator must render his decision within five (5) days after Commission action, the decision set forth in detail, the reasons for denial, or in the event of a conditional approval, the changes or additions which are necessary to make the plan acceptable.
B. All copies of the approved plan, with any conditions shown thereon or attached thereto, shall be dated and signed by the Zoning Administrator. One (1) copy of said approved plan and conditions shall be mailed to the applicant and one (1) copy shall be filed with the Building Inspector.

17.88.060 Appeals

Any applicant for plan approval who is dissatisfied or aggrieved by the decisions of the Zoning Administrator, may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the Zoning Administrator no later than fifteen (15) days from the date of the Zoning Administrator's decision.

17.88.070 Expiration of plan approval

A. Six (6) months from the date of approval, a plan approval becomes void if a building permit has not been issued.
B. An extension of approval may be granted if the applicant files for an extension period prior to the approval becoming void and the extension is granted by the approving body.
C. The Zoning Administrator shall notify the permittee by mail of an expiration of plan approval.

17.88.080 Violation and enforcement

A. Prior to the issuance of a building permit, the Building Inspector shall ascertain that the Zoning Administrator has approved plans which are in conformance to those presented with the Building Permit Application and that the time limitations imposed by this Ordinance have not elapsed; and
B. The Zoning Administrator shall ensure that all matters are undertaken according to the conditions of the approved plan. In the event of a violation, the Zoning Administrator shall notify the permittee by mail that he is in violation of the conditions of the approved plan. If no attempt to change the circumstances of the violation is made within ten (10) days after notification, the building permit shall be revoked and considered null and void.

Chapter 17.92

APPEALS AND VARIANCES

Sections:

17.92.010 Appeals to the board of adjustment.
17.92.020 Appeals from the board.
17.92.030 Fees.

17.92.010 Appeals to the board of adjustment

A. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or department of the Town affected by any decision of the Zoning Administrator.

B. Appeals to be considered by the Board shall be filed with the Zoning Administrator on forms furnished for the purpose within fifteen (15) days after the action appealed from, and shall specify the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which action appealed from is taken.

C. The appeal stays all proceedings in the matter appealed from, unless the Zoning Administrator certifies to the Board that, by reason of the facts stated in the certification, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board, or by a court of record on application and notice to the Zoning Administrator.

D. The Board shall hear the appeal within thirty (30) days, and shall give notice of hearing by publication of a notice in the official newspaper of the Town and by posting the property affected not less than fifteen (15) days prior to the hearing. The notice shall set forth the time and place of the hearing and include a general explanation of the matter to be considered.

E. The Board may reverse, affirm or modify the order, requirement or decision of the Zoning Administrator appealed from, and make such order, requirement, decision or determination as necessary.

F. Any party may appear at the hearing in person or by agent or attorney. Parties shall have the right to present their case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination of witnesses as may be required for a full and true disclosure of the facts. The Board shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence and in furtherance of this policy may limit cross-examination.

G. Any aggrieved person may appeal to the Board of Adjustment of a variance from the terms of the Zoning Ordinance only because of special circumstances applicable to property, including its size, shape, topography, location or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted may be

subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other priorities in the zone in which such property is located.

H. A variance shall not be granted by the Board unless the alleged hardship caused by literal interpretation of the provision of this Ordinance results in more than personal inconvenience and/or financial hardship, and is not the result of actions of the appellant.
I. In granting Variance, the Board may impose such conditions and safeguards as are appropriate to ensure that the purpose and intent of this Ordinance will be fulfilled. Failure to comply with such conditions and safeguards, when made a part of the terms under which a Variance is granted shall be deemed a violation of this Ordinance.
J. No non-conforming use or violation of this Ordinance with respect to neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structure or buildings in other zoning districts shall be considered grounds for granting a Variance.
K. Every Variance granted shall be personal to the applicant therefore and shall be transferred and shall run with the land only after completion of any authorized structure or structures.
L. Nothing herein contained shall be construed to empower the Board to change the terms of this Ordinance, to authorize uses which violate any other Town Ordinance, to affect changes in the Zoning Map, or to add to or change the uses permitted in any zoning district.

17.92.020 Appeals from the board

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

17.92.030 Fees

A. Upon filing an application for appeal or a variance the applicant shall pay a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the office of the Town Clerk. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is the Town, County, State or Federal government.
B. In the case of an appeal for a variance to more than one provision of this Ordinance, the filing fee shall equal the total amount chargeable for all provisions as prescribed by the fee schedule.

Chapter 17.96

APPEALS AND VARIANCES

Sections:

17.96.010 Purpose.
17.96.020 Definitions.
17.96.030 Continued use.
17.96.040 Reconstruction.
17.96.050 Extensions.
17.96.060 Parking.

17.96.010 Purpose

The purpose of this Section is to regulate the use, maintenance, alteration, repair, extension and restoration of buildings and land which lawfully existed at the time of adoption of this Ordinance, but which do not conform to the regulations for the district in which they are located.

17.96.020 Definitions

A. A non-conforming use is a use of a structure or land which was lawfully established and maintained prior to the adoption of this Ordinance but which under this Ordinance, does not conform to the use regulations for the district in which it is located.
B. A non-conforming structure is a structure which was lawfully erected prior to the adoption of this Ordinance but which under this Ordinance, does not conform with the standards of coverage, yard spaces, height or structures or distance between structures prescribed in the regulations for the district in which the structure is located.

17.96.030 Continued use

A. The lawful use of land, building or structure existing at the time of passage of this Ordinance, although such does not conform to the provisions hereof for said land, may be continued, but if such non-conforming use is discontinued for a period of six (6) months, it shall be considered abandoned and future use of said land or structure shall be in conformity with the provision of this Ordinance.
B. Nothing in this article shall prevent the reconstruction, repairing or rebuilding of a non-conforming structure or part thereof rendered necessary by normal wear and tear, deterioration or depreciation, provided such wear and tear, deterioration or depreciation does not exceed fifty percent (50%) of the value of said structure as determined by a competent appraiser.
C. Nothing in this Ordinance shall be interpreted as authorization for approval of the continuance of the use of a building or premises in violation of regulations in effect at the time of the effective date of this Ordinance.

D. Nothing in this Ordinance shall prevent requiring the strengthening or restoring to a safe condition of any portion of a structure declared unsafe by a proper authority.
E. Nothing in this Ordinance shall require any change in plans, construction or designated use of a building for which a building permit has been issued prior to the enactment of this Ordinance, provided the construction shall be diligently prosecuted within sixty (60) days of the date of this Ordinance, and the building is completed and used according to such plans as filed within one (1) year from the date of this Ordinance.
F. A non-conforming building or portion thereof which was specifically designed, or beyond reasonable doubt, intended by the nature of its arrangement and construction to be used in any way which would be non-conforming under this Ordinance, but was not so used at the time this Ordinance became effective, may, if not altered or repaired as prohibited elsewhere in this Ordinance, be occupied or used for the purpose for which it was designed, arranged or intended provided such building is so used within six (6) months after the effective date of this Ordinance. Otherwise, the use of such building shall conform to the provisions of this Ordinance.

17.96.040 Reconstruction

Where any non-conforming use or structure is dismantled or damaged by fire, explosion, collapse, act of God, act of owner or act of public enemy, said non-conforming use or structure shall be allowed to be reconstructed, within a period of two (2) years following such destruction, provided such use or structure shall not be non-conforming to an extent greater than existed prior to such damage or destruction.

17.96.050 Extensions

A. Any extension of a conforming structure devoted to a non-conforming use, or extension of a non-conforming structure shall conform with all regulations for the zoning district in which such structure is located.
B. Any extension of a non-conforming use shall be by Conditional Use Permit issued by the Planning and Zoning Commission subject to the following:
   1. The extension of a lawful use to any portion of a non-conforming building shall not be deemed the extension of a non-conforming use.
   2. No non-conforming use shall be extended to displace a conforming use.
   3. A non-conforming use of a building or lot shall not be changed to another non-conforming use except that such changes may be allowed by Conditional Use Permit when the proposed use is not more intensive and objectionable than the original use.
   4. Once changed to a conforming use, no building or land shall be permitted to revert to a non-conforming use.

17.96.060 Parking

A. If a building or business is destroyed, and if it is allowed to be reconstructed subject to the provisions of Subsection D of this Section, it shall be required to

provide only the number of parking spaces which existed prior to the destruction.

B. If a business expands, it shall in addition to the parking spaces which existed prior to such expansion, be required to provide only the number of additional parking spaces necessitated by the expansion.

Chapter 17.100

SIGNS

Sections:

17.100.010 Purpose.
17.100.020 Definitions.
17.100.030 Applicability.
17.100.040 Permits.
17.100.050 Regulations applicable to signs in all zones.
17.100.060 Regulations applicable to sign in all agricultural residential and mobile/manufactured home zones.
17.100.070 Regulations applicable to signs in all commercial and industrial zones.

17.100.010 Purpose

This section provides a set of standards for the design and construction of signs within the Town of Springerville in order to protect property values; to promote a desirable aesthetic character for the Town; to protect the general public from damage or injury which may be caused by the faulty and uncontrolled construction of signs; to protect pedestrians and motorists from damage or injury caused, or partially attributed to the distractions and obstructions which are caused by improperly situated signs; to promote the public safety, welfare, convenience and enjoyment of travel and free flow of traffic.

17.100.020 Definitions

Shopping Center – A group of three (3) or more commercial establishments Associated by common agreement or under common ownership which comprises contiguous land parcel unit with common parking facilities.

Sign – Any identification, description, illustration or device which is affixed directly or indirectly upon a building, structure or land which directs attention to a product, place, activity, person, institution or business, and which is visible from any public street, waterways, alley or public place, and shall include banners and similar services. A vehicle mounted sign on a vehicle that is habitually parked or stationed at the site of a business and serves to advertise or identify the business, shall be construed as a sign for the purpose of this Ordinance. National flags of political subdivisions shall not be construed as signs.

Sign – Area of – That area in square feet of the smallest rectangle, square, circle or triangle that encompasses the sign. The area of any two-faced sign with parallel faces or “V” type signs having an interior angle of forty-five degrees (45°) shall be the area of a single face. All other multiple faced or paneled signs shall be the total area of all faces or panels. Sign area shall include the mounting surface, on which the lettering is placed. For signs which are painted on a wall surface and for multiple-unit signs, the area shall include the lettering and the vertical and horizontal spacing between letters which comprise the work or words that convey the message.

Sign, Canopy – A type of building-mounted sign under and supported by a permanent canopy, arcade or portal, and the faces of which are perpendicular to the nearest façade.

Sign, Development – Any temporary sign erected on the premise(s) of an existing construction project and designating the architect, contractor, designer or builder or developer, or the name and nature of the project.

Sign, Directional – Any sign which is designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which or on which the public is directed, and which contains no advertising copy.

Sign, Free Standing – A sign attached to or supported from the ground and not attached to a building. Signs on walls or fences which are not an integral part of a building are free standing signs.

Sign, Height – The vertical distance from grade to the highest point of the sign.

Sign, Political – Any temporary sign which supports the candidacy of any candidate for public office or urges action on any other matter on the ballot of primary, general or special elections.

Sign, Projecting – A type of building-mounted sign, other than a wall sign or canopy sign, which projects from and is supported by a wall of a building.

Sign, Property Sale, Rental or Lease – Any sign advertising the availability for sale, rental or lease of land or buildings.

Sign, Roof – A type of building-mounted sign which projects from and is supported by the roof of a building.

Sign, Wall – A sign flush to the exterior surface of a building, applied directly on the building, in a window or a signboard attached flush to the building, projecting no more than six inches (6”) from the building surface and not projecting above the roof surface. However, light sources aimed at the wall sign may project farther.

17.100.030 Applicability

The provisions of this Section shall apply to all signs placed or maintained within the Town of Springerville with the exception of the following:

A. Governmental Signs: Signs required by law or signs of a duly constituted governmental body, such as traffic signs, warning signs or no trespassing signs.
B. Public Utility Signs: Signs placed by a public utility for the safety, welfare or convenience of the public, such as signs identifying high voltage, public telephone or underground cables.
C. Vehicle Signs: Signs upon a vehicle, provided that any such vehicle is not conspicuously parked so as to constitute a sign. Nothing herein contained shall prevent such a vehicle from being used from a bona fide delivery and other vehicular purposes.
D. Temporary Holiday Decorations: Shall be allowed, provided they shall in no way create a hazard or nuisance, provided they are erected no more than thirty (30) days prior to that holiday to which they refer, and provided they are removed within ten (10) days following that holiday to which they refer.

17.100.040 Permits

A. A sign permit shall be required before a sign may be placed, constructed, reconstructed or altered within the Town of Springerville with the exception of the following:
   1. Nameplate signs and address signs.
   2. Repainting or maintenance of signs, provided there is no change in size or shape. (Changes in wording, composition or colors shall be allowed without a permit).
   3. Property sale, rental or lease signs.
   4. Directional signs.
   5. Dedication Plaques: Non-illuminated names of buildings, dates of erection, monument citations, commemorative tables and the like, when carved into stone, concrete, metal or any other permanent type construction and made an integral part of a permitted structure and made flush to the ground.

B. An application for a sign permit shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall include the following:
   1. Sketch showing size, height and shape of sign.
   2. Description of material used and method of mounting.
   3. Landscaping.
   4. Existing signs.
   5. Any other information the Planning and Zoning Administrator might need to evaluate the Sign Proposal.
   6. Payment of the filing fee in an amount established by a schedule adopted by Resolution of the Council. No part of the filing fee shall be returnable. Payment of the filing fee shall be waived when the petitioner is an official or agency of the City, County, State or Federal Government.

C. Plan Review. Within ten (10) days after receipt of a complete application for a sign permit, the Zoning Administrator shall review the sign plans, and deny, approve or conditionally approve said plans, basing his decision on the conformity of the proposal with the provisions of this Section.

17.100.050 Regulations applicable to signs in all zones

A. No sign shall be constructed or erected in such a manner as to interfere in any way with or confuse traffic or present a traffic hazard.

B. Flashing Signs: Signs shall not be animated or have intermittent illumination or flashing lights, except that “time and temperature” signs such as used by banking institutions may be allowed by Conditional Use Permit.

C. Lighting: Lighting shall be so installed so as to avoid any glare or reflection into any building used for residential purposes, or into any street, alley or driveway if such glare or reflection might create a traffic hazard. All exposed neon, freon, incandescent or similar type of illumination shall be not less than ten feet (10’) above grade. Below this ten feet (10’), any such lighting shall be shielded by transparent or translucent protective material.

D. Audible Devices: No sign shall have audible devices.
E. Building Codes: All signs shall be constructed, designed or attached to structures in conformance with the Building Code adopted by the Town of Springerville.
F. Real Estate Signs: Temporary property sale, rental or lease signs shall be allowed along each street frontage of the property to which the sign refers. Each sign shall not exceed six (6) square feet in area, shall not exceed five (5') feet in height and shall be located no nearer than ten (10') feet from another lot, nor nearer than fifty (50') feet from any other real estate sign along the same street frontage. Signs of up to twenty (20) square feet may be allowed by Conditional Use Permit.
G. Entrance, Exit and Directional Signs: Two (2) utility signs not more than two (2) square feet each denoting "Entrance" or "Exit" shall be permitted if necessary for that purpose. In addition, two (2) directional signs such as "Office" signs and arrows not more than two (2) square feet each shall be allowed.
H. Off-Site Signs: Except as provided in Paragraph G-4 of this Section each sign shall be located on the same lot as the activity to which it refers, except that two (2) or more signs may be placed upon a common structure when a Conditional Use Permit has been secured for that purpose.
I. Height Limitations at Streets, Driveways and Sidewalks: When located within a distance of twenty-five (25') feet from a street or driveway, or within two (2') feet from a sidewalk, no sign shall be placed between a height of three (3') feet and seven (7') feet above the level of said street, driveway or sidewalk. When located over a sidewalk, no part of the sign shall be less than eight (8') feet above said sidewalk. When located over any driveway, no part of any sign shall be less than fourteen (14') feet above said driveway.
J. Location: No free-standing, projecting or canopy sign shall be located closer than ten (10') feet from any abutting lot.
K. No sign shall obstruct any door or fire escape of any building.
L. Political Signs: Political signs shall be permitted provided a bond has been posted in an amount established by a schedule adopted by resolution of the Council. This bond shall be returned, provided that provisions of this paragraph are complied with. In the event that the Town must remove such signs, the cost of such removal shall be assessed against this bond. Political signs shall not be placed in the public right-of-way or upon power or telephone poles.

Political signs may be erected no earlier than sixty (60) days prior to any primary or general election. They shall be removed within ten (10) days after the election to which the sign pertains or after the termination of a candidacy, whichever occurs first.

M. Non-conforming Signs: Any non-conforming sign may be continued in use, provided however, that in the event any such sign is hereafter damaged to exceed fifty percent (50%) of the reproduction value according to appraisal thereof by a competent appraiser, or is removed or destroyed by any means whatsoever, including fire, collapse, explosion, act of the owner, act of public

enemy or act of God, such sign may be restored, reconstructed, altered or repaired only to conform with the provisions of this Ordinance. Reasonable repairs may be made to non-conforming signs.

N. Maintenance: All signs shall be maintained in a state of good order and repair, and if any outdoor advertising sign becomes a danger to the public, or becomes deteriorated or is abandoned, the property owner or owner of the sign shall be notified to remove or repair the sign. If he does not comply within ten (10) days, the Zoning Administrator shall have the sign removed and the cost assessed to the owner of the property on which such sign is located.

17.100.060 Regulations applicable to sign in all agricultural residential and mobile/manufactured home zones

A. Nameplates: One (1) nameplate not exceeding three (3) square feet in area indicating the names of the occupants, and one (1) set of numbers not exceeding one (1) square foot in area indicating the street address, shall be allowed for each dwelling unit.

B. Home Occupation and Business Signs: One (1) sign not exceeding four (4) square feet in area shall be allowed for each street frontage for each professional office, business or home occupation, in those zones in which such office or business is permitted, provided such signs shall be wall signs, except that signs other than wall signs shall be allowed by Conditional Use Permit.

C. Subdivision Sale Signs: Two (2) signs, not to exceed thirty-two (32) square feet each shall be allowed for each subdivision to designate the availability of lots or homes for sale. These signs shall be erected at least two hundred (200') feet apart. Permits for these signs shall be valid for a period of one (1) year, and the sign shall be removed after expiration of the permit.

D. Subdivision ID Signs: A maximum of two (2) signs, contained only the name of the subdivision and not exceeding a combined total area of thirty-two (32) square feet may be erected at each entrance to a subdivision.

E. Apartment House ID Signs: One (1) sign containing the name of the apartment house, not exceeding thirty-two (32) square feet in area may be allowed on each street frontage of any apartment complex. These signs shall be only wall signs or free-standing signs. Free-standing signs shall not exceed four (4) feet in height. (Note the height regulations of Paragraph E-9 of this section).

F. Height: No sign shall exceed eight (8) feet in height. (Note the height regulation of Paragraph E-9 of this Section)

17.100.070 Regulations applicable to signs in all commercial and industrial zones

A. Height: No sign shall exceed a height of sixteen (16) feet above grade. (Note the height regulation of Paragraph E-9 of this Section.

B. Attached Signs: A total of two (2) wall, projecting, roof and/or canopy signs, not exceeding a total combined area of two hundred (200) square feet shall be allowed along each street property line.

C. Free-Standing Signs: One (1) free-standing sign shall be permitted in lieu of one (1) of the attached signs permitted in paragraph G-2 of this Section, along each street property line. No such sign shall be greater in area than one hundred fifty (150) square feet, and the total combined area shall be computed as in paragraph G-2. No free-standing sign shall be located closer than twenty (20) feet from any abutting property line except where a Conditional Use Permit has been issued for the combining of two signs on one structure as provided in paragraph E-8 of this Section.
D. Off-Site Signs: One (1) off-site sign shall be permitted in lieu of one (1) of the attached signs permitted in paragraph G-2 of this Section. No such sign shall be greater in area than fifty (50) square feet, and the total combined area shall be computed as in paragraph G-2.
E. Shopping Center Signs: One (1) free-standing sign not exceeding one hundred (100) square feet in area shall be allowed along each shopping center street property line to designate the area of the shopping center and/or the names of the businesses located therein.
F. Sale, Rent or Lease Signs: One (1) temporary property sale, rental or lease sign not exceeding thirty-two (32) square feet in area shall be allowed for each lot to which said sign refers. Such signs shall be removed within twenty (20) days of the sale, rental or lease of which they refer.
G. Development Signs: Development signs shall be allowed subject to the following regulations:
    1. One (1) temporary sign, not to exceed thirty-two (32) square feet in area shall be allowed for each lot or parcel of property to designate that the same is to be occupied at a future date by the business or concern designated thereon.
    2. One (1) non-illuminated temporary sign, not to exceed thirty-two (32) square feet in area for each contractor, developer, architect or engineer, shall be allowed for each lot or parcel of property to designate that such contractor developer, architect or engineer is engaged in the construction or repair of a building on such lot or parcel of property.
    3. Each such development sign shall be removed from the lot or parcel of property upon which the same is placed within twenty (20) days after any occupancy of the building constructed on the premises, or in the event of repairs to the building, within twenty (20) days after the completion of such repairs.
H. Window Signs: Window signs which are temporary in nature such as “sale” signs, “open” and “closed” signs, etc. and service ID signs such as “Master Charge”, “Visa”, “American Express”, etc., shall be allowed in addition to other signs allowances, provided such signs are placed on the inside of the window and are unlighted.
I. Address Signs: One (1) set of numbers not exceeding one (1) square foot in area indicating the street address, shall be allowed in addition to normal sign allowances.

Chapter 17.104

PARKING AND LOADING REQUIREMENTS

Sections:

17.104.010 Purpose.
17.104.020 General regulations.
17.104.030 Design and location of parking spaces.
17.104.040 Schedule of required off-street spaces.
17.104.050 Off-street loading requirements.

17.104.010 Purpose

The purpose of this Section is to alleviate or prevent congestion of the public streets, and to promote the safety and welfare of the public by establishing minimum requirements for the off-street parking of motor vehicles in accordance with the use to which the property is put. It is the further purpose of this Section to place upon the property owner the primary responsibility for relieving public streets of the burden of on-street Parking.

17.104.020 General regulations

A. Size: A parking space shall mean an area of not less than one hundred eighty (180') feet, with a minimum width of nine (9') feet and a minimum depth of twenty (20') feet, which is specifically designated for and used for, the parking of an automobile or light truck, exclusive of all driveways and access ways.

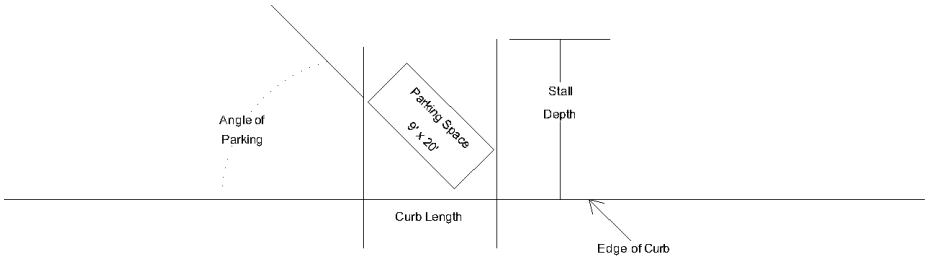
B. Permits: An applicant for Plan Review must submit plans showing the off-street parking required by this Section. These plans must show location, arrangement and dimensions of the off-street parking, turning spaces, drives, aisles and ingress and egress, and must be approved by the Zoning Administrator in accordance with the provisions of Section 303. Whenever approval has been issued in compliance with the requirements of this Section, subsequent use of the structure, or use of the land is conditioned upon the unqualified availability of off street parking as shown in the approved plans.

C. Alterations, Additions and Expansion of a Business
   1. A new use, addition or alteration of a building shall not be approved if it would create or increase a deficit in off-street parking.
   2. It is unlawful to reduce the amount of existing parking below the minimum required by this Section without first supplying other spaces as are required.
   3. If a building or business is destroyed, and if it is allowed to be reconstructed subject to the provisions of Section 403, it shall be required to provide only the number of parking spaces which existed prior to the destruction.
   4. If a business expands, it shall, in addition to the parking spaces in existence prior to such expansion, be required to provide only the number of additional parking spaces necessitated by the expansion.

D. All garage or other space allocated for the parking of vehicles, within buildings, basements or on roofs of buildings, shall be considered part of the off-street parking facilities, and may be included as such in computing the parking area requirements.
E. Access: All off-street parking shall have access from a public street or alley.
F. Ingress, Egress, Internal Traffic Circulation, off-street parking and loading facilities and pedestrian ways shall be designated so as to promote safety and convenience and so that traffic visibility is not obstructed.

17.104.030 Design and location of parking spaces

A. Single-Family Residences, Mobile/Manufactured Homes, Multiple-Family Residences of Four (4) or Less Dwelling Units and Agricultural Uses
   1. Location: Required off-street parking shall be located on the same lot or parcel as the use it is intended to serve.
   2. Surfacing: Off-street parking spaces, driveways and access ways shall be properly surfaced and graded to prevent impoundment of surface water in a manner satisfactory to the Town Engineer.
   3. Driveways: Driveways and access ways shall not be less than ten feet (10') wide for one-way traffic, and not less than twenty (20') feet wide for two-way traffic.
B. All Uses Except as Provided Above
   1. Location: Required off-street parking shall be located within two hundred feet (200') of the building or use it is intended to serve, the distance being measured along the street line from the nearest point of the building or use to the nearest point of the parking lot.
      Whenever the use of a separate lot or parcel is proposed for fulfillment of minimum parking requirements, the owner shall submit as part of his application satisfactory assurance that the separate lot or parcel is permanently committed to parking use by enforceable legal measure.
   2. Design: All off-street parking lots and spaces shall be so designed as to prevent automobiles from backing onto a public street or from projecting beyond the property lines except that a vehicle shall be allowed to back onto a public street from a driveway which serves a residence. This shall be accomplished through the use of such devices as curbing, striping, landscaping, setbacks, driveways or any other method which will ensure compliance with this requirement.
   3. Dimensions: Arrangement of parking spaces within the parking and driveway widths shall conform with the following requirements.



Angle of Parking	Stall Depth	Curb Length	Interior Driveway Width One-Way	Two-Way
0°	9'-0"	20'-0"	12'-0"	24'-0"
30°	17'-10"	21'-10"	12'-0"	24'-0"
45°	20'-6"	20'-6"	12'-0"	24'-0"
60°	21'-10"	17'-10"	18'-0"	25'-0"
90°	20'-0"	90'-0"	25'-0"	25'-0"

4. Surfacing: All off-street parking areas, access ways and driveways shall be improved and surfaced with asphalt, concrete or some other dust-free material in a manner satisfactory to the Town Engineer. The surfacing of the parking area shall be of sufficient grade so that there will be no impoundment of surface water and all surface drainage shall be into a public street or improved drainage channel or structure.
5. Lighting: Parking lots used during hours of darkness shall be lighted to minimum levels of five (5) foot-candles. Lighting shall be indirect, hooded and arranged so that the source of light does not create a nuisance or hazard to traffic or adjacent properties.

17.104.040 Schedule of required off-street spaces

A. Off-street parking spaces shall be provided for each specified use in accordance with the schedule below.
B. Definitions: In calculating the total number of required parking spaces, "Usable Floor Area" as used herein means the area capable of being devoted to the specified use (does not include such spaces as kitchens, restrooms, hallways, etc.) and the term "seat" shall also include thirty inches (30") each of bench seating when individual seats are not provided.
C. Mixed Uses: In the event of mixed uses, the total requirement for off-street parking spaces is the sum of the requirements of the various uses computed separately.
D. Fractional Amount: In calculating the total number of required off-street parking spaces, fractional amounts are to be disregarded.

E. Unlisted Uses: Parking requirements for a specific use not listed in this Section shall be determined by the Planning and Zoning Commission.

F. Schedule:

USE	SPACES
(1) RESIDENTIAL USE:	
(a) One or two family residences	2 per dwelling unit
(b) Multiple dwellings:	
Efficiency Units	1½ per dwelling unit
One bedroom units	1½ per dwelling unit
Two or more bedroom units	2 per dwelling unit
(c) Rooming houses, fraternities, sororities, resident clubs, lodges	1 per sleeping room or 1 per bed, whichever is greater
(d) Mobile/Manufactured Home parks and subdivisions	2 per mobile/manufactured home site plus 1 per 2 employee(s)
(2) COMMERCIAL SALES AND SERVICES	
(a) Restaurants, bars, cocktail lounges	1 per 50 sq.ft. of usable floor area, plus 1 per 2 employees
(b) Drive-in food or drink places with on-site consumption	1 per 50 sq.ft. of usable floor area, plus 1 per 2 employees
(c) Mortuaries, funeral homes	1 per 3 seats, plus 1 per 20 sq. ft. of assembly room area, whichever is greater, plus 1 per employee, plus 1 per commercial funeral vehicle
(d) Self-service laundries and dry cleaners	1 per 2 machines
(e) Open-air business	1 per 500 sq.ft. of sales area for first 2,000 sq.ft. plus 1 per additional 2,000 sq.ft.

(f)	Used car lots	1 per each 100 sq.ft. of sales area for first 4,000 sq.ft. plus 1 per additional 2,000 sq.ft.
(g)	Gas service stations	1 per 2 gasoline pumps, plus 2 per service bay
(h)	Carwash	1 per employee, plus reserve spaces equal to 5 times the wash line capacity
(i)	Motor vehicle and machinery sales, auto repair shops	1 per 800 sq.ft. floor area area
(j)	Planned shopping center	Requirements for all uses elsewhere specified herein, plus 1 per 200 sq.ft. of remaining floor area
(k)	Barber shops, beauty shops	2 per service chair
(l)	Furniture and appliance stores, household equipment	1 per 800 sq.ft. usable floor area
(m)	Supermarkets, drug stores	1 per 100 sq.ft. of usable floor area
(n)	Hotel, motels	1 per guest room or suite plus 1 per 2 employees
(o)	Bus depots	1 per 150 sq.ft. of waiting room space
(p)	Skating rinks, dance halls	1 per 3 persons of maximum capacity permitted by fire regulations
(q)	Bowling alleys	7 per bowling lane, plus 1 per 5 seats in gallery plus 1 per 2 employees

(r)	Billiard parlors	1 per 2 billiard tables, plus 1 per 2 employees
(s)	Gymnasiums, health studios	1 per 400 sq.ft. of usable floor area, plus 1 per 2 employees
(t)	Private golf clubs, swimming clubs, tennis clubs, and similar uses	1 per 2 member families or individuals

(3) OFFICES AND CLINIC USES:

(a)	Offices, banks, saving and loan agencies	1 per 200 sq.ft. of usable floor area
(b)	Medical and dental offices & clinics	1 per 100 sq.ft. of waiting room, plus 1 per examination room or dental chair, plus 1 per 2 employees

(4) SCHOOLS AND INSTITUTIONS

(a)	Elementary and intermediate schools	1 per employee
(b)	High schools	1 per 8 students, plus 1 per employee
(c)	Junior colleges, colleges, universities	1 per 3 enrolled full-time day students, plus 1 per employee
(d)	Trade schools, business colleges	1 per 150 sq.ft. gross floor area
(e)	Hospitals	1 per 2 beds, plus 1 per resident employees, plus 1 per 2 non-resident employees
(f)	Sanitariums, children's homes, homes for aged, asylums, nursing and convalescent homes	1 per 5 beds, plus 1 per resident employees, plus 1 per 2 non-resident employees

(5) PUBLIC ASSEMBLY

(a)	golf courses	5 per hole, plus 1 per employee
(b)	Auditoriums, exhibition halls, theaters convention facilities, meeting rooms	1 per 3 fixed seats, plus 1 per 25 sq.ft. of unfixed seating space, plus 1 per 2 employees
(c)	Church or other place of worship	1 space per 6 seats, plus 1 space per 50 sq.ft. of usable area not used for seating
(d)	Stadiums, outdoor sports areas	1 per 4 seats, plus 1 per 2 employees
(6)	WHOLESALING AND WAREHOUSING USES	1 per 1,700 sq.ft. of usable floor area, or 1 per employee, whichever is greater, plus 1 per company owned motor vehicle
(7)	MANUFACTURING AND INDUSTRIAL USES	1 per 500 sq.ft. gross floor area, or 1 per employee, whichever is greater

17.104.050 Off-street loading requirements

A. In all zoning districts, for every building or part thereof, erected or enlarged after the effective date of this Ordinance, which is occupied by a use receiving or distributing materials or merchandise by motor truck, there shall be provided and maintained on the same premises as the building or use, adequate off-street loading space meeting the minimum requirements herein after specified. Loading space shall not be considered as satisfying requirements for off-street parking space.

B. Schedule of Loading Space Requirements:

Total Floor Area of Building	Number of Loading Spaces Required
1,000 sq. ft. to 10,000 sq. ft.	1
10,000 sq. ft. to 30,000 sq. ft.	2
30,000 sq. ft. to 50,000 sq. ft.	3
For each additional 100,000 sq. ft.	1 additional

C. Location: Required off-street loading space shall not be permitted in any required front yard, nor in any required side yard except in a non-residential district where a side yard abuts an alley. Off-street loading space may occupy all or any part of a required rear yard, except as otherwise provided herein, and may be partially or entirely enclosed within a building.
D. Alleys: Where a building or use in a non-residential district abuts an alley, such alley may be used as maneuvering space for loading and unloading spaces; provided however, that no alley abutting any residential district may be so used.
E. Size: Every required off-street loading space shall have a minimum width of twelve (12') feet, a minimum length of forty-five (45') feet and a minimum height of fourteen (14') feet, exclusive of access aisles and maneuvering space.

Chapter 17.108

REGULATIONS GOVERNING NEWLY ANNEXED TERRITORY

Sections:

17.108.010 Initial zoning.
17.108.020 Effect of annexation on building permits.
17.108.030 When town building permit is not required.
17.108.040 When town building permit is required.
17.108.050 Nonconforming uses.
17.108.060 Land use map to be prepared.
17.108.070 Enlargement of use.

17.108.010 Initial zoning

Areas, when annexed to the Town of Springerville, shall until officially zoned by the Council, be considered to be zoned as shown on the official zoning map of the Apache County Planning and Zoning Commission at the time of annexation.

17.108.020 Effect of annexation on building permits

Apache County building or use permits, legally issued not more than sixty days prior to the effective date of annexation, shall be honored by the Town building inspector within sixty days after the effective date of annexation, and he shall issue a Town building permit when construction details conform to all pertinent city construction codes and construction ordinances and pertinent county zoning regulations in effect at the time the county permit was issued. The amount of the fee paid for the county permit shall apply on the Town permit and the balance only must be paid before a town permit is issued.

17.108.030 When town building permit is not required

A Town building permit shall not be required for buildings, legally under construction with a building or use permit issued by the Apache County Planning and Zoning Commission prior to the effective date of annexation, and the exterior walls of which have been completed to the plate line or beyond, but the Town shall require that buildings shall be structurally safe and conform to pertinent county zoning regulations in effect at the time the county permit was issued.

17.108.040 When town building permit is required

For buildings under construction on the effective date of annexation, which are completed to a lesser degree than prescribed in Section 503, a Town building permit shall be required, and from the effective date of annexation, all construction shall conform to the pertinent city construction codes and construction ordinances, and conform to pertinent county zoning regulations in effect at the time the permit was issued.

17.108.050 Nonconforming uses

Any use or activity conducted contrary to county zoning regulations at the effective date of annexation and not constituting a non-conforming use under the county zoning regulations shall not be considered a non-conforming use hereunder and the continuance thereof shall constitute a violation of this ordinance.

17.108.060 Land use map to be prepared

Upon the annexation of any area, the planning division shall prepare a land use map which shall be prima facie evidence of the manner in which a building or land was being used at the time of annexation.

17.108.070 Enlargement of use

The physical plant, building and land, devoted to any use which is permitted under the terms of the ordinance, subject to the securing of a use permit, may be enlarged or extended only after securing a new use permit.

Chapter 17.112

UNIFORM POLICIES, GUIDELINES, REGULATIONS AND RESTRICTIONS WITH RESPECT TO SEXUALLY ORIENTED BUSINESSES

Sections:

17.112.010 Purpose and findings.
17.112.020 Definitions.
17.112.030 Business license required.
17.112.040 Exemptions from license requirements.
17.112.050 Business categories – number of licenses.
17.112.060 Employee licenses.
17.112.070 License application – disclosures required.
17.112.080 License – fees.
17.112.090 License – bond.
17.112.100 License – premises, location and name.
17.112.110 License – issuance conditions.
17.112.120 License – term.
17.112.130 License – notice of change of information.
17.112.140 License – transfer limitations.
17.112.150 License – display.
17.112.160 License – statement in advertisements.
17.112.170 Effect of license revocation.
17.112.180 Appeal procedures.
17.112.190 Sexually-Oriented business – design of premises.
17.112.200 Semi-Nude entertainment business – design of premises.
17.112.210 Outcall services – operation requirements.
17.112.220 Location of sexually-oriented businesses.
17.112.230 Alcohol prohibited.
17.112.240 Semi-nude dancing agencies.
17.112.250 Regulations and unlawful activities.
17.112.260 Performers – prohibited activities.
17.112.270 Patrons – prohibited activities.
17.112.280 Additional regulations of adult motels.
17.112.290 Nudity – defenses to prosecution.
17.112.300 Legitimate artistic modeling.
17.112.310 Violation – injunction when.
17.112.320 Violation – license suspension or revocation.
17.112.330 Violation – penalty – responsibility.
17.112.340 Severability.

17.112.010 Purpose and findings

A. Purpose. It is the purpose of this ordinance to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious locations and concentration of sexually-

oriented businesses within the Town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by distributors and exhibitors of sexually-oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

B. Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the council, and findings incorporated in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 427 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1961), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Indianapolis, Indiana; Garden Grove, California; Los Angeles, California; Seattle, Washington; Oklahoma City, Oklahoma; and Cleveland, Ohio; and also findings from the Report of the Attorney General's Working Group On The Regulation of Sexually-oriented Businesses, (June 6, 1989, State of Minnesota), the council finds:

1. Sexually-oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of theses establishments responsible for the activities that occur on their premises.
2. Certain employees of sexually-oriented businesses defined in this ordinance such as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
3. Sexual acts, including masturbation, and oral sex occur at sexually-oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
4. Offering and providing such space encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theatres, adult arcades, and other sexually-oriented businesses for the purpose of engaging in sex within the premises of sexually-oriented businesses.
6. At least 50 communicable diseases may be spread by activities occurring in sexually-oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodificiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
7. The Surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may

be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

8. According to the best scientific evidence, AIDS and HIV infection as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
9. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States—600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, 253,448 in 1992 and, through 2001, 793,026.
10. The number of Syphilis cases in all stages has steadily fallen from 135,043 in 1990 to 31,575 in 2000. However, as of 1999, Arizona had the eleventh highest rate for Primary and Secondary Syphilis infections; more importantly, when compared to other states in the Western U.S., Arizona's infection rate is between three and forty-five times higher, with rates five and six times higher than neighboring California and New Mexico, respectively.
11. The number of cases of gonorrhea in the United States has steadily fallen since its 1978 high of over one million cases. But reported cases still exceeded 350,000 in 2001.
12. Between 1984 and 2001, reported cases of Chlamydia have multiplied almost ten-fold, from 7,594 to 702,093.
13. Sanitary conditions in some sexually-oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
14. Numerous studies and reports have determined that semen is found in the areas of sexually-oriented businesses where persons view "adult" oriented films.
15. The findings noted in paragraphs 1 through 14 raise substantial governmental concerns.
16. Sexually-oriented businesses have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns.
17. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually-oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually-oriented businesses is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Town. It is appropriate to require reasonable assurance that the licensee is the actual operator of the sexually-oriented business, fully in possession and control of the premises and activities occurring therein.
18. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest

in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

19. Requiring licenses of sexually-oriented businesses to keep information regarding current employees and certain past employees will help reduce in the incidences of certain types of criminal behavior by facilitating the identification of potential witness or suspects and by preventing minors from working in such establishments.
20. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually-oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.
21. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this ordinance is designed to prevent or who are likely to be witness to such activity.
22. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance.
23. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct, which leads to the transmission of sexually transmitted diseases.
24. The general welfare, health, morals and safety of the citizens of the Town will be promoted by the enactment of this ordinance.

17.112.020 Definitions.

For the purpose of this Chapter, the following words shall have the following meanings:

"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 devise are maintained to show images to five or fewer persons per machine at anyone time, and when the images so displayed are distinguished or characterized by depicting or describing of "specific sexual activities" or "specified anatomical areas,"

"Adult Bookstore", **"Adult Novelty Store"**, or **"Adult Video Store"** means a commercial establishment:

A. Which excludes minors from more than fifteen percent (15%) of the retail floor or shelf space of the premises; or
B. Which, as one of its purposes, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals, or other printed matter; or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations, the central theme of which depicts or describes "specified sexual activities" or "specified anatomical areas"; or instruments, devices,

or paraphernalia which are used in connection with "specified sexual activities," except for legitimate medically recognized contraceptives.

A commercial establishment may have other principle business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "adult bookstore," "adult novelty store," or "adult video store." Such other business purpose will not serve to exempt such commercial establishments from being categorized as an "adult bookstore," "adult novelty store," or "adult video store" so long as one of its principle business purposes is offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specific anatomical areas."

"Adult Business" shall have the same meaning as set out in the definition of "sexually-oriented business" herein.

"Adult Cabaret" means a nightclub (which does not serve alcoholic beverages), restaurant, or similar commercial establishment which regularly 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 "specified sexual activities", or
C. films, motion pictures, videocassettes, slides or other photographic reproductions, which are characterized by the depiction or description of "specified anatomical areas" or "specified sexual activities."

"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 anatomical area" or "specified sexual activities"; and has a sign visible from the public right of way which advertises the availability of the adult type of photographic reproductions; or
B. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
C. allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten (10) hours.

"Adult Motion Picture Theater" means a commercial establishment which:

A. Excludes minors from the showing of two consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition); or
B. As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of "specified anatomical area" or "specified sexual activities."

"Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which:

A. Holds itself out as such a business; or

B. Excludes minors from the showing of two consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or

C. As its principal business, features persons who appear in live performances in a state of "nudity" or "semi-nudity" or which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

"Dancer" means one licensed pursuant to this Chapter for performance or appearance at a "sexually-oriented business."

"Employ" means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

"Employee" shall have the same meaning as set out in the definition of "sexually-oriented business employee" herein.

"Escort" means any person who, for pecuniary compensation, dates, socializes, visits, consorts with, or accompanies or offers to date, consort, socialize, visit, or accompany another or others to or about social affairs, entertainment, or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters. "Escort" shall not be construed to include either

A. persons who provide business or personal services, such as licensed private nurses, aides for the elderly, or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve hours and who provide a service not principally characterized as dating or socializing; or

B. persons providing services such as singing telegrams, birthday greetings, or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

"Escort Service" means an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

"Escort Service Runner" means any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort, or patron by contacting or meeting with escort services, escorts, or patrons at any location within the Town, whether or not such third person is employed by such escort service, escort, patron, or by another business, or is an independent contractor or self-employed.

"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."

“Model” means one 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” means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude Model Studio” shall not include a proprietary school licensed by the State of Arizona or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

A. that has no sign visible from the exterior of the structure and no other advertising that indicated a “nude” or “semi-nude” person is available for viewing; and
B. where in order to participate in a class a student must enroll a least three days in advance of the class; and
C. where no more than one “nude” or “semi-nude model” in on the premise at any one time.

“Nude” or **“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 genital in discernibly turgid state.

“Operator” means the manager or other natural person principally in charge of a “sexually-oriented business.”

“Outcall Services” means services of a type performed by a “sexually-oriented business employee” outside of the premises of the licensed “sexually-oriented business,” including but not limited to “escorts,” “models,” “dancers” and other similar employees.

“Patron” means any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this Chapter.

“Pecuniary Compensation” means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.

“Person” means any person, unincorporated association, corporation, partnership, or other legal entity.

“Semi-nude” or **“Semi-Nudity”** means a state of dress in which:

A. Fully opaque clothing completely covers the human female breast below a point immediately above the top of the areola; and
B. The male or female genitals, pubic region, buttocks, and anus, are covered by fully opaque clothing no narrower than four inches wide in the front and five inches wide in the back, which shall not taper to less than one inch wide at the narrowest point.

"Semi-nude Dancing Agency" means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional "dancer" licensed pursuant to this Chapter for performance or appearance at a "sexually-oriented business."

"Semi-nude Entertainment Business" means a business, including "adult theater," where employees perform or appear in the presence of patrons of the business in a state of "semi-nudity." A business shall also be presumed to be a "semi-nude entertainment business" if the business holds itself out as such a business.

"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-oriented Business" means "adult bookstore," "adult cabaret", "adult motel," "adult novelty store," "adult video store," "adult motion picture theater," "adult theatre," "escort service," "nude model studio," "semi-nude dancing agency," "semi-nude entertainment business," or "sexual encounter center" as defined herein.

"Sexually-oriented Business Employees" means those employees who work on the premises of a "sexually-oriented business" in activities related to the sexually-oriented portion of the business. This includes all managing "sexually-oriented business employees," "dancers", "escorts," "models," and other similar employees, whether or not hired as "sexually-oriented business employees," agents, or as independent contractors.

"Sexually-oriented business employees" shall not include individuals whose work is unrelated to the sexually-oriented portion of the business, such as janitors, bookkeepers, and similar employees.

"Sexually-oriented business employees" shall not include cooks, serving persons, and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this Chapter, including "escorts," "models," guards, "escort runners," drivers, chauffeurs, and other similar employees, shall be considered "sexually-oriented business employees."

"Specified Anatomical Areas" means: The human male or female pubic area, genitalia, buttocks, or anus; or the human female breast below a point immediately above the top of the areola.

"Specified Sexual Activities" means:

A. Acts, whether real or simulated, of: (i) masturbation, (ii) human sexual intercourse, (iii) sodomy, (iv) fellatio, (v) cunnilingus, or (vi) bestiality,
B. Manipulating, caressing, or fondling, or simulating the manipulation, caressing, or fondling by any person of: (i) the genitals of a human, (ii) the

pubic area of a human, (iii) any part of the breast or breasts of a human female; or (iv) any part of the human buttocks or anus.

C. Actual or simulated sadomasochistic acts, flagellation, or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

D. The actual or simulated display of human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

"Substantial Enlargement" of a "sexually-oriented business" means the increase in the floor areas occupied by the business by more than twenty-five percent (25%) as the floor areas exist on the date this ordinance takes effect.

17.112.030 Business license required.

It is unlawful for any person to operate a sexually-oriented business, as specified herein, without first obtaining a general business license and a sexually-oriented business license. The sexually-oriented business license shall specify the type of business for which it is obtained.

17.112.040 Exemptions from license requirements.

The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State for activities in the classroom.

17.112.050 Business categories – number of licenses.

A. The categories of sexually-oriented businesses are:
   1. adult bookstore,
   2. adult cabaret,
   3. adult motel,
   4. adult novelty store,
   5. adult video store,
   6. adult motion picture theater,
   7. adult theatre,
   8. escort service,
   9. nude model studio,
   10. semi-nude dancing agency,
   11. semi-nude entertainment business, or
   12. sexual encounter center.

B. It is unlawful for any business premises to operate or be licensed for more than one category of sexually-oriented business, except that a business may have a license for both outcall services and a semi-nude dancing agency on the same premises.

17.112.060 Employee licenses.

It is unlawful for any sexually-oriented business to employ or for any individual to be employed by a sexually-oriented business in the capacity of a sexually-oriented business employee, unless that employee first obtains a sexually-oriented business employee license.

17.112.070 License application – disclosures required.

Before any applicant may be licensed to operate a sexually-oriented business or as a sexually-oriented business employee pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the Town license authority, the following:

A. The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name;
B. If the applicant is a corporation, partnership, or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten percent of the stock of any applicant, except that the shareholder disclosure requirements above shall only be applicable for outcall service licenses. Any holding company, or any entity holding more than ten percent of an applicant, shall be considered an applicant for purposes of disclosure under this Chapter;
C. All corporations, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign the checks for such corporation, partnership, or non-corporate entity;
D. For all applicants or individuals, the application must also state, where applicable:
    1. Any other names or aliases used by the individual,
    2. The age, date, and place of birth,
    3. Height,
    4. Weight,
    5. Color of hair,
    6. Color of eyes,
    7. Present business address and telephone number,
    8. Present residence and telephone number, driver’s license or identification number, and social security number;
E. Acceptable written proof that any individual is at least eighteen years of age;
F. Attached to the form, as provided above, two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Police Department. For persons not residing in the Town, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;
G. For any individual applicant required to obtain a sexually-oriented business employee license as an escort or a semi-nude entertainer, a certificate from a qualified health professional, stating that the individual has, within thirty days

immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases;

H. A statement of the business, occupation, or employment history of the applicant for three years immediately preceding the date of the filing of the application;

I. A statement detailing the license or permit history of the applicant for the five-year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, Town, state, or territory, has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or has had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application;

J. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual, or other entity subject to disclosure under this Chapter, for five years prior to the date of the application.

   This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a sexually-oriented business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;

K. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

L. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations, or employment guidelines under or by which the business intends to operate. This description shall also include:

1. The hours that the business or service will be open to the public and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity,
2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities,
3. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances,
4. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity. It is unlawful to knowingly submit false or materially misleading information on or with a sexually-oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually-oriented business or employee license.

17.112.080 License – fees.

A. The owner of a sexually-oriented business shall pay the following application fees and annual fee in relation to each place at which it is proposed that a sexually-oriented business shall operate:
   1. To process the application of an owner or employee except a sexually-oriented business employee (maximum of $1,000.00 per year for each place of business): $1,000.00 per person
   2. Annual license fee (in addition to application fee; includes the owner and all employees except a sexually-oriented business employee): $500.00 per year
B. A sexually-oriented business employee shall pay the following fees:
   1. To process the application:$250.00 per person
   2. Annual license fee (in addition to application fee) $250.00 per year
C. An Escort shall pay the following fees:
   1. To process the application:$250.00 per person
   2. Annual license fee (in addition to application fee) $250.00 per year
D. An application fee shall not be prorated. The annual fee described in this section may be prorated, but not to an amount less than one quarter of the annual fee.
E. The fees described in this section are in addition to fees paid for business licenses or beer licenses.
F. An application is not complete until all appropriate fees have been paid.

17.112.090 License – bond.

Each application for a sexually-oriented business license shall post, with the Finance Director or his designee a cash or corporate surety bond payable to the Town of Springerville in the amount of two thousand dollars ($2,000.00). Any fines assessed against the business, officers, or managers for violations of Town ordinances shall be taken from this bond if not paid in cash within ten days after notice of the fine, unless an appeal is filed as provided by this Chapter. In the

event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars within fifteen days of the date of notice of any draw against it.

17.112.100 License – premises, location and name.

A. It is unlawful to conduct business under a license issued pursuant to this Chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.
B. It is unlawful for any sexually-oriented business to do business in the Town under any name other than the business name specified in the application.

17.112.110 License – issuance conditions.

The Finance Director or his designee shall approve the issuance of a license to the applicant within thirty days after receipt of a completed application, unless the official finds one or more of the following:

A. The applicant is under eighteen years of age;
B. The applicant is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against the applicant or imposed on the applicant in relation to a sexually-oriented business;
C. The applicant has falsely answered a material question or request for information as authorized by this Chapter;
D. The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two years immediately preceding the application; a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;
E. The premises to be used for the business have been disapproved by the Apache County Health Department, the Fire Department, the Police Department, the building officials, or the zoning officials as not being in compliance with applicable laws and ordinances of the Town. If any of the foregoing reviewing agencies cannot complete their review within the thirty-day approval or denial period, the agency or department may obtain from the Finance Director or his designee an extension of time of no more than fifteen days for their review. The total time for the Town to approve or deny a license shall not exceed forty-five days from the receipt of a completed application and payment of all fees. Businesses located outside of the corporate boundaries of the Town, but requiring a license under this Chapter, may be denied a license pursuant to this Chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location;
    1. Upon receipt of an application, all departments required to review the application shall determine within seven days whether or not the application is incomplete in items needed for processing. Incomplete

applications shall immediately be returned to the applicant with a specification of the items which are incomplete;

2. The time for processing applications specified in this Section shall begin to run from the receipt of a complete application;
3. In the event that a license for semi-nude entertainment, semi-nude dancing agencies, adult businesses, or semi-nude entertainment businesses has not been disapproved within thirty days or the forty-five days allowed after an extension, the Town shall issue the license pending completion of the Town's review;
4. Any license issued pursuant to 3 above may be revoked by the Town, pursuant to the revocation procedures provided for herein, if the completed review determines that the license should have been denied.

F. The required license fees have not been paid;

G. All applicable sales and use taxes have not been paid;

H. An applicant for the proposed business is in violation of or not in compliance with this Chapter or similar provisions found in statutes or ordinances from any jurisdiction;

I. An applicant has been convicted or pled nolo contendere to a crime involving:
   1. prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:
      a. Less than two years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five years if the convictions are of two or more misdemeanors within the five years, or
      b. Less than five years have elapsed from the date of conviction, if the offense is of a felony.
   2. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Section.

J. The Town reserves the exclusive right to have the discretion to review and reject any application (for both business licenses, and employee licenses) upon the Town’s evaluation of an applicant’s involvement in any one of the above referenced crimes, or any crime of moral turpitude.

17.112.120 License – term.

Sexually-oriented business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance through July 1st of each succeeding year. The license fees required under the fee schedule set forth

herein shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for.

17.112.130 License – notice of change of information.
Any change in the information required to be submitted under this Chapter for either a sexually-oriented business license or sexually-oriented business employee license shall be given, in writing, to the a Finance Director or his designee and the Police Department within fourteen days after such change.

17.112.140 License – transfer limitations.
Sexually-oriented business licenses granted under this Chapter shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership, or other non-corporate entity to transfer any part in excess of ten percent (10%) thereof, without filing a new application and obtaining prior Town approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void, and the business shall not operate until a separate new license has been properly issued by the Town as provided in this Chapter.

17.112.150 License – display.
It is unlawful for any sexually-oriented business location within the boundaries of the Town to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the Town, their employee license on their person. If the individual is nude, such license shall be visibly displayed within the same room the employee is performing. When requested by police, Town licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the Town.

17.112.160 License – statement in advertisements.
It is unlawful for any advertisement by the sexually-oriented business or employee to fail to state that the business or employee is licensed by the Town, and shall include the Town license number.

17.112.170 Effect of license revocation.
When a license issued pursuant to this Chapter is revoked, the revocation shall continue for one year from its effective date, and the licensee shall not be issued a sexually-oriented business or employee license for one year from the date of such revocation.

17.112.180 Appeal procedures.
The denial, suspension, or revocation of a license issued pursuant to this chapter may be appealed as set forth in Chapter 9-2-2 of the Springerville Town Code.

17.112.190 Sexually-Oriented business – design of premises.

A. In addition to the general requirements of disclosure for a sexually-oriented business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the license. The design and construction, prior to granting a license or opening for business, shall conform to the following:
   1. 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.
   2. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being allowed in the restroom per stall, and only one person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas.
   3. For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.
   4. The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.

B. It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station in subsection A of this Section remain unobstructed by any doors, walls, merchandise, display racks, or any other materials at all times that any patron is present on the premises, and to insure 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.

C. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that illumination described above is maintained at all times that any patron is present in the premises.

17.112.200 Semi-Nude entertainment business – design of premises.

A. It is unlawful for business premises licensed for semi-nude entertainment to:
   1. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theatre such items may be on the stage as part of a performance.

2. Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors, and restroom doors to be lockable from the inside;
3. Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet high and six inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.

B. Adult theatres shall also require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high.

17.112.210 Outcall services – operation requirements.

It is unlawful for any business or employee providing outcall services contracted for in the Town to fail to comply with the following requirements:

A. All businesses licensed to provide outcall services pursuant to this Chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this Section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.

B. All outcall businesses licensed pursuant to this Chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For outcall businesses which premises are booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the services, nor shall patrons meet outcall employees at the business premises.

C. Outcall services shall not advertise in such a manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee.

D. All employees of outcall services who provide outcall services within the Town shall be licensed in accordance with this Chapter, regardless of the primary location of the business.

17.112.220 Location of sexually-oriented businesses.

A. A person commits a misdemeanor if that person operates or causes to be operated a sexually-oriented business in any zoning district other than L1 as defined and described in the Town of Springerville, Arizona Zoning Code.
B. A person commits an offense if the person operates or causes to be operated a sexually-oriented business within two hundred (200) feet of the following:
   1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
   2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; “school” includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
   3. Boundaries of a residential district as defined in the Town of Springerville, Arizona Zoning Code;
   4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;
   5. The property line of a lot devoted to a residential use a defined in Town of Springerville, Arizona Zoning Code;
   6. An entertainment business which is oriented primarily towards children or family entertainment; or
   7. A licensed premise, which sells alcohol pursuant to the alcoholic beverage control regulations of the State.
C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business within two hundred (200) feet of another sexually-oriented business.
D. A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually-oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually-oriented business in any building, structure, or portion thereof containing another sexually-oriented business.
E. For the purposes of this Section, measurement shall be made 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.
F. A sexually-oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the granting or renewal of the sexually-oriented business license, of a classification listed in this Section, paragraph B within two hundred (200) feet of the sexually-

oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

G. It is unlawful for any sexually-oriented business licensed to be located within three hundred thirty (330) feet of a business licensed for the sale or consumption of alcohol.

17.112.230 Alcohol prohibited.

A. It is unlawful for any sexually-oriented business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the premises thereof.

B. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually-oriented business.

17.112.240 Semi-nude dancing agencies.

A. It is unlawful for any individual or entity to furnish, book, or otherwise engage the services of a professional dancer, model, or other performer to appear in a state of semi-nudity for pecuniary compensation in or for any semi-nude entertainment business or adult theatre licensed pursuant to this Chapter, unless such agency is licensed pursuant to this Chapter.

B. It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi-nudity or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this Chapter, unless such person is licensed pursuant to this Chapter.

17.112.250 Regulations and unlawful activities.

It is unlawful for any sexually-oriented business or sexually-oriented business employee to:

A. Allow persons under the age of eighteen years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

B. Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen years;

C. To allow, offer, or agree to allow any alcohol to be stored, used, or consumed on or in the licensed premises;

D. Allow the outside door to the premises to be locked while any customer is in the premises;

E. Allow, offer, or agree to gambling on the licensed premises;

F. Allow, offer, or agree to any sexually-oriented business employee touching or being touched by any patron or customer;

G. Allow, offer, or agree to illegal possession, use, sale, or distribution of controlled substances on the licensed premises;

H. Allow sexually-oriented business employees to possess, use, sell, or distribute controlled substances on the licensed premises;

I. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;
J. Allow, offer, commit, or agree to any specified sexual activity as validly defined by Town ordinances or State Statute in the presence of any customer or patron;
K. Allow, offer or agree to any outcall employee appearing before any customer or patron in a state of dress that violates this chapter;
L. Allow, offer, or agree to allow a patron or customer to masturbate in the presence of the sexually-oriented business employee or on the premises of a sexually-oriented business.

17.112.260 Performers – prohibited activities.
It is unlawful for any professional dancer, model, or performer, while performing in any business licensed pursuant to this Chapter, to:
A. Touch in any manner any other person;
B. Throw any object or clothing off the stage area;
C. Accept any money, drink, or any other object directly from any person; or
D. Allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or
E. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

17.112.270 Patrons – prohibited activities.
It is unlawful for any person or patron of any business licensed pursuant to this chapter to:
A. touch in any manner any performer;
B. place any money or object on or within the costume or person of any performer; or
C. give or offer to give any such performer any drinks, money, or object while such performer is performing, except that money may be placed on the stage, which shall not be picked up by the performer except by hand.

17.112.280 Additional regulations of adult motels.
A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishments has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this ordinance.
B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually-oriented business license, the person rents or sublets a sleeping room to another and within ten (10) hours from the time the room is rented, the person rents or sub-rents the same sleeping room again.

C. For purposes of this Section, the terms “rent” or “sub-rent” means the act of permitting a room to be occupied for any form of consideration.

17.112.290 Nudity – defenses to prosecution.

It is a defense to prosecution or violation under this Chapter 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, or 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.

17.112.300 Legitimate artistic modeling.

A. The Town does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar State protections. The Town does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding any other valid ordinance of the Town of Springerville, Arizona, a licensed outcall employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least twenty-four (24) hours before the nude appearance. All of the other applicable provisions of this Chapter shall still apply to such nude appearance.
B. In the event of a contract for nude modeling or appearance signed more than forty-eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this Chapter. During such unlicensed nude appearance, it is unlawful to:
   1. Appear nude or semi-nude in the presence of persons under the age of eighteen;
   2. Allow, offer, or agree to any touching of the contracting party or other person by the individual appearing nude;
   3. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;
   4. Allow, offer, commit, or agree to any sex act as validly defined by Town ordinances or State statute;
   5. Allow, offer, agree, or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
   6. Allow, offer, or agree for the individual appearing nude to be within five feet of any other person while performing or while nude or semi-nude.

17.112.310 Violation – injunction when.

An entity or individual who operates or causes a sexually-oriented business or be operated without a valid license, or who employs or is employed as an employee of a sexually-oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this Chapter is subject to a suit

for injunction in addition to the civil and criminal violations, and any other remedy available at law or in equity.

17.112.320 Violation – license suspension or revocation.

A. The Town may issue a notice of suspending or revoking a sexually-oriented business or employee license granted under this Chapter if a licensee or an employee of the licensee has:
   1. Violated or is not in compliance with this Chapter;
   2. Refused to allow any inspection of the premises of the sexually-oriented business specifically authorized by this chapter or by any other statue or ordinance;
   3. Failed to replenish the cost bond as provided in this Chapter (such a suspension shall extend until the bond has been replenished);
   4. Given materially false or misleading information in obtaining the license;
   5. Knowingly operated the sexually-oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
   6. A licensee has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed;
   7. On two or more occasions within a twelve-month period, a person or persons committed in or on, or solicited for on the license premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed, of the sexually-oriented business at the time the offenses were committed;
   8. A licensee is delinquent in payment to the Town for ad valorem taxes, or sales taxes related to the sexually-oriented business.

B. Suspension or revocation shall take effect within fifteen days of the issuance of notice, unless an appeal is filed as provided by this Chapter.

C. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

17.112.330 Violation – penalty – responsibility.

A. In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the Finance Director or his designee require the licensee to pay a civil penalty in the amount of five hundred dollars ($500.00). Such fines shall be deducted from the cost bond posted pursuant to this Chapter, unless paid within ten (10) days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this Chapter, the violation of any provision of this Chapter shall be a class "B" misdemeanor. Each day of a violation shall be considered a separate offense.

B. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the sexually-oriented business licensee and/or operator, if such act or omission

occurs either with the authorization, knowledge, or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, and the sexually-oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

C. A sexually-oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended, or renewed.

17.112.340 Severability.

If any Section or clause of this Chapter or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof. To this end, the provisions of this Chapter are declared to be severable.

Chapter 17.116

UNIFORM POLICIES, GUIDELINES, REGULATIONS AND RESTRICTIONS WITH RESPECT TO COMMUNICATION TOWERS AND ANTENNAS

Sections:

17.116.010 Purpose.
17.116.020 Definitions.
17.116.030 Applicability.
17.116.040 General requirements.
17.116.050 Permitted uses.
17.116.060 Administratively approved uses.
17.116.070 Conditional use permits.
17.116.080 Buildings or other equipment storage.
17.116.090 Removal of abandoned antennas and towers.
17.116.100 Nonconforming uses.

17.116.010 Purpose

The purpose of this ordinance is to establish general guidelines for the sitting of wireless communications towers and antennas. The goals of this ordinance are to:

A. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
B. Encourage the location of towers in non-residential areas;
C. Minimize the total number of towers throughout the community;
D. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
E. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, sitting, landscape screening, and innovative camouflaging techniques;
F. Consider the public health and safety of communication towers;
G. Avoid potential damage to adjacent properties from tower failure through engineering and careful sitting of tower structures; and
H. Protect Airport approach corridors.

In furtherance of these goals, the Town of Springerville shall give due consideration to the Town's General Plan, Zoning Map, and existing land uses in approving sites for the location of towers and antennas.

17.116.020 Definitions

As used in this ordinance, the following terms shall have the meanings set forth below:

"Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

"Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, microwave signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

"Backhaul network" or **"interconnection facilities"** means the lines that connect a providers' towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

"FAA" means the Federal Aviation Administration.

"FCC" means the Federal Communications Commission.

"Height" means, when referring to a tower, the distance measured from the base of the tower to the highest point on the tower or other structure, including the base pad and any antenna. An applicant shall be prohibited from altering the natural grade/elevation of the site. No tower/antenna installations shall exceed 200 feet in height, except as may be conditionally approved on industrially zoned properties.

"Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired; and also means any tower or antenna erected prior to annexation or prior to the commencement of the Town's building permit requirement.

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

17.116.030 Applicability.

New Towers and Antennas. All new towers or new antennas in the Town of Springerville shall be subject to these regulations, except as follows:

A. Amateur Radio Station Operators and/or Receive Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under fifty feet in height provided that minimum setback requirements are met and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas. Extendable tower antenna installations - no greater than seventy-five foot extended height - shall be permitted as of right provided that minimum setback requirements are maintained for the installation's maximum extended height. The minimum required setbacks from adjacent properties of these installations, shall be the height of the tower/antenna assembly (measured to the extended height of an extendable tower and antenna).

B. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Ordinance, other than the requirements of Section 17.116.040 (E), (F) and (G) of this Ordinance.

17.116.040 General requirements.

A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with zoning district regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

C. Aesthetics. Towers and antennas shall meet the following requirements:
   1. Towers shall be painted, subject to any applicable FAA standards, a neutral color so as to reduce visual obtrusiveness. At a tower site, the design of the buildings and related structures shall, to the extent possible, utilize materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
   2. If an antenna is installed on a structure other than a tower, the antenna and supporting mechanical equipment must be of a neutral color that is compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

D. Lighting. Towers shall not be artificially lighted, unless required by the FAA, or the Town and/or other applicable authority for safety reasons. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. The owner of the tower shall ensure the ongoing maintenance of all required tower lighting.

E. State or Federal Requirements. All towers and emissions must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

F. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and any other applicable standards, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being

provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Interference. The installation of any equipment or commencement of any frequencies that interfere with or compromise any public safety frequencies/installations shall be prohibited. The tower and antenna owners shall replace any equipment, commercial or private products upon damage to said equipment by tower frequencies.

H. Measurement. Commercial products for purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Town of Springerville irrespective of municipal and county jurisdictional boundaries.

I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Town of Springerville have been obtained and shall file a copy of all required franchises with the Zoning Administrator.

K. Public Notice. For purposes of this ordinance, any conditional use request, variance request, or appeal of an administratively approved use or conditional use shall require public notice in accordance with the Zoning Ordinance and applicable state law.

L. Signs. No signs shall be allowed on an antenna or tower, except as may be legally required.

M. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 17.116.080 of this code.

N. Visual Corridor Protection. Except for placement on existing structures or towers, no new tower shall be permitted within two hundred (200) feet of the edge of the right-of-way for any arterial or collector roadways as identified in the Town of Springerville's Transportation Plan.

O. Airport Corridor Protection. No tower or antenna shall exceed the airport protection height limitations as set forth in the Springerville Municipal Airport Master Plan.

P. Residential Land Use Zoning Districts. No new towers shall be permitted on any residentially zoned property, except for amateur radio or receive only towers/antennas as described herein. Tower/antenna installations may be considered on publicly owned residentially zoned properties.

17.116.050 Permitted uses.

The following uses are specifically permitted: Antennas or towers located on property owned, leased, or otherwise controlled by the Town of Springerville

provided a license or lease authorizing such antenna or tower has been approved by the Town Council.

17.116.060 Administratively approved uses.

A. General. The following provisions shall govern the issuance of administrative approvals for towers and antennas.
   1. The Zoning Administrator may administratively approve the uses listed in this Section.
   2. Each applicant for administrative review shall apply to the Zoning Administrator providing the information set forth in Sections 17.116.070 (B)(1) and (B)(3) of this code and shall pay a nonrefundable fee as established by resolution of the Town Council to reimburse the Town for the costs of reviewing the application.
   3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Sections 17.116.040, 17.116.070 (B)(4) and 17.116.070 (B)(5).
   4. The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving, conditionally approving, or denying the application. If the Zoning Administrator fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.
   5. In connection with any administrative application, the Zoning Administrator may, in order to encourage the use of self-supporting poles, administratively allow the reconstruction of an existing tower to a method of self-supporting construction.
   6. If an administrative approval is denied, the applicant shall file an application for a conditional use permit pursuant to Section 17.116.070 prior to filing any appeal that may be available under the Zoning Ordinance.

B. List of Administratively Approved Uses. The Zoning Administrator may approve the following after conducting an administrative review:
   1. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial zoning district.
   2. Locating antennas on existing structures or towers consistent with the terms of subsections (1) and (2) below.
      a. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any structure located in any commercial or industrial zoning district, provided:
         (i) The antenna and/or any supporting mechanism does not extend more than thirty (30) feet above the highest point of the structure;
         (ii) The antenna complies with all applicable FCC and FAA regulations; and
         (iii) The antenna complies with all applicable Town codes.

b. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent to the following:
   (i) A tower that is modified or reconstructed to accommodate the collocation of an additional antenna shall be of similar type as the existing tower, unless the Zoning Administrator allows reconstruction as a self-supporting pole.
   (ii) The antenna complies with all applicable FCC and FAA regulations.
   (iii) Height
      (a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.
      (b) The height change referred to in subsection (iii)(a) may only occur one time per tower.
   (iv) Onsite location
      (a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location, as long as the separation distances for residential units or residentially zoned lands set forth in Section 17.116.070 (B)(5) are met.
      (b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
      (c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section 17.116.070 (B)(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of Section 17.116.070 (B)(5).
   c) Installing a cable micro-cell network through the use of multiple low-powered transmitters and/or receivers attached to existing wire-line systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

17.116.070 Conditional use permits.

A. General. The following provisions shall govern the issuance of conditional use permits for towers or antennas by the Planning and Zoning Commission:
   1. If a tower or antenna is not a permitted use under Section 17.116.050 of this Ordinance or permitted to be approved administratively pursuant to Section 17.116.060 of this code, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna.

2. Applications for conditional use permits under this Section shall be subject to the procedures and requirements of Section 302 of the Zoning Ordinance, except as modified in this Section.
3. Each applicant for a Conditional Use permit shall provide the information set forth in this section and shall pay a nonrefundable fee as established by resolution of the Town Council to reimburse the Town for the costs of reviewing the application. The Town shall not collect this fee for consideration of a proposed amateur radio tower/antenna installation measuring greater than 50 feet in height.
4. Any information of an engineering nature submitted by the applicant. Whether of a civil, mechanical, or electrical nature, shall be certified by a professional engineer licensed in the State of Arizona.

B. Towers.

1. Application information required. The Zoning Administrator may waive certain of the following requirements in the case of Commission consideration of any proposed Amateur Radio Tower installation that does not fulfill the requirements of Section 17.116.030 (A)(1) of this code. This information may be required in addition to any information required for applications for conditional use permits pursuant to Section 302 of the Zoning Ordinance applicants for a conditional use permit for a tower shall submit the following information:
   a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), General Plan classification of the site and all properties within the applicable separation distances set forth in Section 17.116.070 (B)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance.
   b. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
   c. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 17.116.070 (B)(1)(e) shall be shown on a plot plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
   d. Legal description of the parent tract and leased parcel (if applicable).
   e. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Town of Springerville or within one mile of the border thereof, including specific information about the location, height, and type of each tower. The Zoning Administrator may

share such information with other applicants applying for administrative approvals or conditional use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Town, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

f. A landscape plan showing specific landscape materials and the type of security fencing.
g. Finished color of the tower and, if applicable, the method of camouflage and illumination.
h. A description of compliance with Sections 17.116.040 (C), (D), (E), (F), (G), (J), (K), (L), and (M), 17.116.070 (B)(4), 17.116.070 (B)(5), and all applicable federal, state or local laws.
i. Certification by a structural engineer, licensed in the State of Arizona, of the carrying capacity of the tower.
j. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
k. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
l. A description of the feasible location(s) of future towers or antennas within the Town of Springerville based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
m. Evidence of the submittal of FAA Form 7460-1 (Notice of Proposed Construction or Alteration) to the FAA, and evidence of intent and preparations made to submit FAA Form 7460-2 (Notice of Actual Construction or Alteration) to the FAA, contingent upon approval of application pursuant to Section 302 of the Zoning Ordinance.

2. Factors Considered in Granting Conditional Use Permits for Towers. In addition to any standards for consideration of conditional use permit applications pursuant to Section 302 of the Zoning Ordinance the Planning and Zoning Commission shall consider the following factors in determining whether to issue a conditional use permit:
   a. Height of the proposed tower;
   b. Proximity of the tower to residential structures and residential district boundaries;
   c. Nature of uses on adjacent and nearby properties; (4) Surrounding topography;
   d. Surrounding tree coverage and foliage;
   e. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
   f. Proposed ingress and egress;

g. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 17.116.070 (B)(3) of this code.

3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. An applicant shall submit information requested by the Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna should consist of any of the following:
   a. No existing towers or structures are located within the geographic area meeting the applicant's engineering requirements.
   b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
   c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
   d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
   e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs significantly exceeding new tower development are presumed to be unreasonable.
   f. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro-cell network using multiple low-powered transmitters and/or receivers attached to a wire line system, is unsuitable.
4. Setbacks. The following setback requirements shall apply to all towers:
   a. Towers must be set back a distance equal to at least one hundred and twenty-five percent (125%) of the height of the tower from any adjoining lot line, but may be reduced by the Commission, to a minimum of one hundred percent (100%) if the goals of this ordinance would be better served thereby. In the case of amateur radio tower installations, these minimum setback requirements may be further reduced by the Commission through the Conditional Use Permit process, considering such factors as topography and height of surrounding vegetation.
   b. Accessory buildings and/or structures must satisfy the minimum zoning district setback requirements.
5. Separation. The following separation requirements shall apply to all towers:
   a. Separation from all residentially zoned properties areas shall be a minimum of 200 feet, but may be reduced by the Commission if the goals of this ordinance would be better served thereby.

(i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas.

b. Separation distances between towers.

(i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower - and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances for all zoning districts shall be 2,500 feet.

(ii) The approving authority may reduce separation distances between towers if multiple towers are to be placed on a single lot or if it is deemed in the community's best interest (i.e. the creation of a "tower farm").

6. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Commission may waive such requirements, as it deems appropriate. All fencing shall be properly maintained.

7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; provided, however, that the Commission may waive such requirements if the goals of this ordinance would be better served thereby.

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. All plant materials shall be properly maintained.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

c. Existing mature tree growth and natural landforms on the site shall be preserved. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

17.116.080 Buildings or other equipment storage.

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

1. The equipment cabinet or structure shall not contain more than ten square feet of gross floor area or be more than four feet in height. In addition, for buildings and structures which are less than sixty- five (65) feet in height, the related unmanned equipment structure, if over ten square feet of gross floor area or four feet in height, shall be located on the ground and shall not be located on the roof of the structure.

2. Equipment storage buildings or cabinets shall comply with applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet used in association with antennas shall be located in accordance with the following:
   1. In residential districts, the equipment cabinet or structure may be located:
      a. In a front or side yard provided the cabinet is no greater than 4 feet in height or 10 square feet of gross floor area. The cabinet shall be suitably screened and/or camouflaged to blend with its surroundings.
      b. In a rear yard, provided the cabinet or structure is no greater than 10 feet in height or 160 square feet in gross floor area. The cabinet/structure shall be suitably screened.
   2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than 10 feet in height or 144 square feet in gross floor area. The structure or cabinet shall be suitably screened and/or camouflaged to blend with its surroundings.

C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than 160 square feet of gross floor area or be more than 15 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located. In the event of multiple antenna installations on a single location the construction of only one unmanned equipment storage building shall be permitted.

D. Modification of Building Size Requirements. The requirements of A through C above may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning & Zoning Commission in the case of uses permitted by conditional use to encourage collocation.

17.116.090 Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

17.116.100 Nonconforming uses.

A. Not Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

TAX CODE

OF THE

TOWN OF SPRINGERVILLE

(1997 Edition as amended in 1998, 1999 and 2001)

*Ordinance history: Ords. 84, 89, 91, 92, 96, 97, 107, 109, 111 and 112.

Appendix A

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Remediation
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Rental supply
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Resides within the Town
Restaurant
Retail sale (sale at retail)
Retailer (Reg. 100.3)
Sale
Speculative builder
Substantially complete
Supplier
Tax Collector
Taxpayer
Telecommunication service
Utility service

100.1 Brokers.

100.2 Delivery, installation, or other direct customer services.

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110 Definitions: income-producing capital equipment. (Reg. 110.1)

(a) includes, subject to (d):

(1) machinery or equipment (Reg. 110.2)
(2) mining
(3) telecommunications
(4) electrical generation or transmission
(5) pipes or valves
(6) aircraft instruments
(7) aircraft machinery, equipment
(8) railroad rolling stock
(9) oil/gas drilling equipment
(10) urban mass transit vehicles
(11) utility services
(12) groundwater measuring devices
(13) research and development
(14) (Reserved)
(15) liquid, solid or gaseous chemicals
(16) cleanrooms
(17) soundstage complex
(18) satellite television or data transmission service
(19) poultry and eggs

(20) control of land, water or air pollution
(21) television signals
(b) ancillary equipment to remove waste products, except (d).
(c) repair and replacement parts
(d) definition does not include:
(1) expendable materials
(2) janitorial equipment and hand tools
(3) office equipment, furniture, supplies
(4) sales/distribution
(5) motor vehicles licensed for road use
(6) certain materials
(7) motors and pumps for drip irrigation
(e) aircraft definitions
(1) aircraft simulator or component parts
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115 Definitions: computer software; custom computer programming (Reg 115.1)
(a) computer software
(b) custom computer programming

115.1 Computer hardware, software, and data services.

120 (Reserved)

120.1 (Reserved)

ARTICLE II - DETERMINATION OF GROSS INCOME

200 Determination of gross income: in general.
(a) Includes:
(1) value from sales of property or service
(2) total sale or lease price
(3) receipts, cash, barter, exchange, reduction of debt, etc.
(4) including deposits and deferred payments (Reg. 200.1)
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(c) No deduction for cost, losses, etc.

200.1 When deposits are included in gross income.

210 Determination of gross income: transactions between affiliated companies or persons.

220 Determination of gross income: artificially contrived transactions.

230 Determination of gross income based upon method of reporting.
- (a) Cash basis
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240 Exclusion of cash discounts, returns, refunds, trade-in values, vendor-issued coupons, and rebates from gross income.
- (a) (1) cash discounts
  - (2) returns
  - (3) trade-ins
  - (4) vendor-issued coupons
  - (5) rebates
  - (6) cash rebate on motor vehicles
- (b) subsequent period reduction may still be excluded if reported as taxable in prior period.

250 Exclusion of combined tax from gross income; itemization; notice; limitations.
- (a) when tax separately collected/charged
  - (1) remittance of all tax collected/charged (Reg. 250.1).
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250.1 Excess tax collected.

260 Exclusion of fees and taxes from gross income; limitations.
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- (b) F.E.T. on heavy trucks and trailers.
- (c) certain State excise taxes, fees and surcharges
- (d) motor vehicle dealer documentation fees

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266 Exclusion of motor carrier revenues from gross income.
- (a) motor carrier subject to State Tax
- (b) lightweight motor vehicle subject to State Tax
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270 Exclusion of gross income of persons deemed not engaged in business.
- (a) Definitions
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  - (3) Non-licensed business

(4) Proprietary club
(5) Public educational entity

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(c) Federally exempt organizations and proprietary clubs do not have taxable gross income except:
(1) proprietary clubs 15% rule on revenue (Reg. 270.2)
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(d) Sales or leases to (a) taxable unless licensed and paying a tax on resales/leases income.

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270.1 Proprietary activities of municipalities are not deemed activities of a governmental entity.

270.2 Proprietary clubs.

280 Exemption of transactions with specific governmental agencies.

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290 (Reserved)

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300 Licensing requirements.

(a) Who must apply (Reg. 300.1)
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300.1 Who must apply for a license.

300.2 (Reserved)

305 Special licensing requirements.

(a) Partnerships

(b) Corporations

(c) Multiple locations
(d) Conditional on meeting other legal requirements

310 Licensing: duration of license; transferability; display.
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(b) Non-transferable between owners or locations, and must be publicly displayed at business location.
(c) Replacement of license treated as new license for purposes of application and fee.
(d) (Reserved)
(e) (Reserved)
(f) (Reserved)
(g) (Reserved)
(h) (Reserved)
(i) (Reserved)
(j) (Reserved)

310.1 (Reserved)

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310.3 (Reserved)

315 (Reserved)

320 Licensing: cancellation; revocation.
(a) Cancellation if inactive.
(b) Revoked for failure to comply.
(c) Notice and Hearing
(d) Reinstatement

330 Operating without a license.

350 Recordkeeping requirements. (Reg. 350.1, Reg. 350.2, Reg. 350.3)
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(b) Tax Collector can specify books and records kept after audit reveals inadequate recordkeeping.

350.1 Recordkeeping: income.

350.2 Recordkeeping: expenditures.

350.3 Recordkeeping: out-of-Town and out-of-State sales.

360 Recordkeeping: claim of exclusion, exemption, deduction, or credit; documentation; liability. (Reg. 360.1, Reg. 360.2)
- (a) Claim of exemption must be documented.
- (b) Vendee's claim of exemption shifts tax liability to vendee.

360.1 Proof of exemption: sale for resale; sale, rental, lease, or license of rental equipment.

360.2 Proof of exemption: exemption certificate.

370 Inadequate or unsuitable records.
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- (1) provide other suitable records, or
- (2) correct/reconstruct records.

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400 Imposition of Privilege Taxes; presumption.
- (a) Taxes imposed:
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  - (2) privilege taxes on rental occupancy
- (b) Taxes imposed by this Chapter in addition to others
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405 Advertising. (Reg. 405.1, Reg. 405.2)
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405.1 Local advertising examples.

405.2 Advertising activity within the Town.

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407.1 (Reserved)

410 Amusements, exhibitions, and similar activities.
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415 Construction contracting: construction contractors. (Reg. 415.1, Reg. 415.2)

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  (3) Exclusion of manufactured buildings.
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415.1 Distinction between the categories of construction contracting.

415.2 Distinction between construction contracting and certain related activities.

416 Construction contracting: speculative builders. (Reg. 416.1, Reg. 416.2)
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  (2) improved real property
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  (4) partially improved residential real property
(b) Exclusions
  (1) prior value for reconstruction
  (2) fair market value of land
  (3) (Reserved)
  (4) stipulations for exclusion of gross income
(c) Deductions and exemptions
  (1) exemptions
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416.1 Speculative builders: homeowner's bona fide non-business sale of a family residence.

416.2 Reconstruction contracting.

417 Construction contracting: owner-builders who are not speculative builders.

- (a) Measure of tax; rate
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- (b) Deductions and exemptions
  - (1) exemptions
  - (2) deductions
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- (c) Reporting; statute of limitations
- (d) (Reserved)

418 (Reserved)

420 (Reserved)

425 Job printing. (Reg. 425.1)

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- (b) Deductions
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  - (2) out-of-Town sales
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425.1 Distinction between job printing and certain related activities.

427 Manufactured buildings

- (a) Measure of tax; rate
- (b) Sale of used manufactured buildings
- (c) Furniture, appliances taxed under retail
- (d) Trade-ins and tax liability

430 Timbering and other extraction.

- (a) Measure of tax; rate
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  - (2) oil and gas extraction/refining
- (b) Tax based on location of activity, not location of sale.
- (c) If shipped out-of-state unsold, tax based on value at time of shipment.

432 Mining.

- (a) Measure of tax; rate
- (b) Rate applied to value of entire product

(c) If shipped out-of-state unsold, tax based on value at time of shipment.

435 Publishing and periodicals distribution. (Reg. 435.1)

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(c) Subscription income
(d) Circulation
(e) Allocation of taxes between cities and towns.
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435.1 Distinction between publication of periodicals and certain related activities.

435.2 Advertising income of publishers and distributors of newspapers and other periodicals.

440 Rental occupancy tax.

444 Hotels.

445 Rental, leasing, and licensing for use of real property. (Reg. 445.1, Reg. 445.2, Reg. 445.3)

(a) Measure of tax, rate.
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(e) Exemption for land leased to non-profit primary health care facilities.
(f) (Reserved)
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(h) (Reserved)
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(l) (Reserved)
(m) (Reserved)
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445.1 (Reserved)

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447 Rental, leasing, or licensing for use of real property: additional tax upon transient lodging. (Reg. 447.1)

447.1 Gross income form rental, leasing, and licensing for use or real property as lodging or lodging space to transients.

450 Rental, leasing or licensing for use of tangible personal property. (Reg. 450.1, Reg. 450.2, Reg. 450.3)
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(b) Special provisions relating to long-term motor vehicle leases
(c) Exemptions
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(2) semi-permanently or permanently installed in another taxing city (Reg. 450.4)
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(4) (A) prosthetics
(B) income-producing capital equipment
(C) mining and metallurgical supplies.
(5) to a qualifying hospital, health center or health care organization
(6) delivery, installation, repair, maintenance charges
(7) joint pole use charges
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(9) aircraft acquired for use outside State
(10) alternative fuel vehicles

450.1 Distinction between rental, leasing, and licensing for use of tangible personal property and certain related activities.

450.2 Rental, leasing, and licensing for use of tangible personal property: membership fees; other charges.

450.3 Rental, leasing, and licensing for use of equipment with operator.

450.4 Rental, leasing, and licensing for use of tangible personal property: semi-permanently or permanently installed tangible personal property.

450.5 Rental, leasing, and licensing for use of tangible personal property: delivery, installation, repair, and maintenance charges.

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455 Restaurants and bars.
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- (b) Delivery, set-up, and clean-up charges of off-premises restaurants
- (c) Sales to qualifying hospitals, health centers or health care organizations

455.1 Gratuities related to restaurant activity.

460 Retail sales: measure of tax; burden of proof; exclusions.
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- (b) Burden of proof
- (c) Exclusions
  - (1) stocks, bonds, etc.
  - (2) lottery tickets
  - (3) bullion and monetized bullion (Reg. 460.5)
  - (4) taxable elsewhere in this Chapter (Reg. 460.1)
  - (5) professional services (Reg. 460.4)
- (d) (Reserved)
- (e) Seller's business location takes precedence between cities
- (f) Tax liability based upon seller's location
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460.1 Distinction between retail sales and certain other transfers of tangible personal property.

460.2 Retail sales: trading stamp company transactions.

460.3 Retail sales: membership fees of retailers.

460.4 Retail sales: professional services.

460.5 Retail sales: monetized bullion; numismatic value of coins.

460.6 Retail sales: consignment sales.

465 Retail sales: exemptions.

- (a) sales for resale (Reg. 465.3)
- (b) out-of-City sales or out-of-State sales
- (c) delivery, installation, or other direct customer services
- (d) repair labor (Reg. 465.1)
- (e) sales of warranty contracts (Reg. 465.2)
- (f) prosthetics
- (g) income-producing capital equipment
- (h) rental equipment and rental supplies
- (i) mining and metallurgical supplies
- (j) fuels subject to Arizona fuel use tax; natural gas for motor vehicles
- (k) sales to a licensed construction contractor
- (l) motor vehicle sales to nonresidents for use outside State
- (m) component or ingredient parts sold to job printers, manufacturers, or publishers
- (n) (Reserved)
  - (1) (Reserved)
  - (2) (Reserved)
- (o) food to restaurants
- (p) sales to qualifying hospitals, health centers or health care organizations
- (q) food purchased with food stamps or child nutrition coupons
- (r) (Reserved)
  - (1) (Reserved)
  - (2) (Reserved)
  - (3) (Reserved)
  - (4) (Reserved)
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465.1 Retail sales: repair services.

465.2 Retail sales: warranty, maintenance and similar service contracts

465.3 Retail sales: sale of containers, paper products, and labels.

465.4 Retail sales: aircraft acquired for use outside the state.

470 Telecommunication services. (Reg. 470.1)
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(b) Resale telecommunication services
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470.1 Telecommunication services.

475 Transporting for hire. (Reg. 475.1)
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(4) (Reserved)

475.1 Distinction between transporting for hire and certain related activities.

480 Utility services.
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(b) Sales of natural gas for generation of electricity deemed retail sales
(c) Resale utility services
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(e) Sales to qualifying hospitals, health centers or health care organizations
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(g) Contributions received in aid of construction

485 (Reserved)

ARTICLE V - ADMINISTRATION

500 Administration of this Chapter; rule making.
(a) Administration vested in the Tax Collector
(b) Tax Collector shall prescribe forms and procedures
(c) Town Council approves Regulations
(d) Taxpayer bill of rights
(e) Model City Tax Code

510 Divulging of information prohibited; exceptions.
(a) Divulging information prohibited except as provided here
(b) Town Council authorized examination by another U.S. jurisdiction
(c) Tax Collector can provide information to another Arizona privilege tax administration
(d) Successors, receivers, trustees, etc.
(e) Town Attorney authorized to collection agencies
(f) Other Arizona Town when tax paid to wrong city
(g) Others involved in allocation of publishing tax
(h) By agreement approved by Town Council with another jurisdiction.

515 (Reserved)

516 (Reserved)

517 (Reserved)

520 Reporting and payment of tax.
(a) Returns (Reg. 520.1)
(b) Payment
(c) Requirement of security

(d) Method of reporting: “cash basis” or “accrual basis” (Reg. 520.2)
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    (2) special considerations for construction contractors:
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520.1 (Reserved)

520.2 Change of method of reporting.

530 When tax due; when delinquent; verification of return; extensions.
(a) Report on same date as state sales tax.
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(c) (Reserved)
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540 Interest and civil penalties.
(a) (Reserved)
(b) (Reserved)
(c) (Reserved)
(d) (Reserved)
(e) (Reserved)
(f) (Reserved)
(g) (Reserved)
(h) (Reserved)
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541 (Reserved)

542 Prospective application of new law or interpretation or application of law.
(a) Tax Collector shall not apply any newly enacted legislation retroactively
(b) Tax Collector adopts a new interpretation or application
    (1) Change applies prospectively
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(c) Includes policies and procedures which differ from established interpretations
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545 Deficiencies; when inaccurate return is filed; when no return is filed; estimates.

(a) Tax Collector may recompute or estimate
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    (2) (Reserved)
(b) Estimates; presumption

546 (Reserved)

550 Limitation periods.
(a) Deficiency assessments
(b) (Reserved)
(c) No limitation if no return filed, fraud, operating without license
(d) Special provisions relating to owner-builders

555 Tax Collector may examine books and other records; failure to provide records.
(a) Tax Collector can examine books and records
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(c) (Reserved)
(d) Tax Collector may use any generally accepted auditing standards or procedures
(e) Failure to keep or provide adequate records allows Tax Collector can estimate
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555.1 (Reserved)

556 (Reserved)

560 Erroneous payment of tax; credits and refunds; limitations.
(a) Tax Collector may authorize credits and refunds. Credits cancelled within 1 year after issuance
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(c) (Reserved)
(d) Interest on credits or refunds; calculation
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(f) Allowance/denial of credit is subject to appeal per Section 570.
(g) Refunds made from Privilege Tax revenue accounts

565 Payment of tax by the incorrect taxpayer or to the incorrect Arizona city or town.
(a) Transfer of tax paid by wrong taxpayer
(b) Assignment and waiver requirement
(c) Tax paid to wrong city will be remitted to correct city upon signed assignment and waiver.

(d) A.R.S. Section 42-1452 will govern.
(e) “Other city” means State Department of Revenue if city in State Collection Program.

567 (Reserved)

570 Administrative review; petition for hearing or for redetermination; finality of order.
(a) Informal conference with auditor prior to assessment
(b) Administrative review
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(3) (Reserved)
(4) (Reserved)
(5) hearings
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(7) (Reserved)
(8) (Reserved)
(c) (Reserved)
(d) (Reserved)
(e) Taxpayer bill of rights - applicability

571 Jeopardy assessments. (Reg. 571.1)
(a) If jeopardy assessment, Tax Collector will notify taxpayer at time of assessment, and demand immediate payment
(b) Taxpayer must file request for administrative review together with posting bond or collateral within 10 days
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(d) (Reserved)
(e) (Reserved)

571.1 Collection of tax in jeopardy.

572 (Reserved)

575 Judicial review.
(a) Taxpayer's appeal
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(c) (Reserved)
(d) (Reserved)
(e) Burden of proof
(f) No estoppel
(g) Counterclaims

577 (Reserved)

578 (Reserved)

580 Criminal penalties

(a) It is unlawful to knowingly or willfully:
  (1) fail/refuse to file a return
  (2) fail/refuse to pay tax when due
  (3) make false/fraudulent return
  (4) make false/fraudulent statement to claim tax exemption
  (5) fail/refuse to permit lawful examination of books or records
  (6) fail/refuse to remit taxes collected from customer
  (7) advertise that tax is not a consideration of price
  (8) fail/refuse to obtain a Privilege License
  (9) falsify/forge document to obtain an exemption
(b) Such acts constitute a Class Two Misdemeanor
(c) In addition, knowingly swearing to a false statement subject to laws of perjury

590 Civil actions.

(a) Liens
  (1) Town can file a lien for tax, penalty or interest due
  (2) Lien recording and filing
  (3) Filing a lien does not preclude any other collection methods
  (4) Liens can be released in whole or in part upon payment
(b) Actions to recover tax

595 Collection of taxes when there is succession in and/or cessation of business.

(a) This is in addition to any other provisions in the Town Code
(b) Taxes due are lien on property
(c) Foreclosure or similar transfer of improved real property
(d) Back taxes due are liability of:
  (1) seller if received Certificate at time of sale
  (2) buyer otherwise

596 (Reserved)

597 (Reserved)

ARTICLE VI - (RESERVED)

600 (Reserved)

601	(Reserved)
602	(Reserved)
610	(Reserved)
620	(Reserved)
630	(Reserved)
640	(Reserved)
650	(Reserved)
660	(Reserved)

CHAPTER 9A - PRIVILEGE AND EXCISE TAXES

Article I - General Conditions and Definitions

Sec. 9A-1. Words of tense, number and gender; code references.

(a) For the purposes of this Chapter, all words of tense, number, and gender shall comply with A.R.S. Section 1-214 as amended.

(b) For the purposes of this Chapter, all code references, unless specified otherwise, shall:
   (1) refer to this Town Code.
   (2) be deemed to include all amendments to such code references.

Sec. 9A-100. General definitions.

For the purposes of this Chapter, the following definitions apply:

"Assembler" means a person who unites or combines products, wares, or articles of manufacture so as to produce a change in form or substance of such items without changing or altering component parts.

"Broker" means any person engaged or continuing in business who acts for another for a consideration in the conduct of a business activity taxable under this Chapter, and who receives for his principal all or part of the gross income from the taxable activity.

"Business" means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit, or advantage, either direct or indirect, but not casual activities or sales.

"Business Day" means any day of the week when the Tax Collector's office is open for the public to conduct the Tax Collector's business.

"Casual Activity or Sale" means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to a tax imposed by this Chapter. However, no sale, rental, license for use, or lease transaction concerning real property nor any activity entered into by a business taxable by this Chapter shall be treated, or be exempt, as casual. This definition shall include sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

"Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross

income by this County as authorized by Chapter 8.3, Title 42, Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

"Commercial Property" is any real property, or portion of such property, used for any purpose other than lodging or lodging space, including structures built for lodging but used otherwise, such as model homes, apartments used as offices, etc.

"Communications Channel" means any line, wire, cable, microwave, radio signal, light beam, telephone, telegraph, or any other electromagnetic means of moving a message.

"Construction Contracting" refers to the activity of a construction contractor.

"Construction Contractor" means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

"Delivery (of Notice) by the Tax Collector" means "receipt (of notice) by the taxpayer".

"Delivery, Installation, or Other Direct Customer Services" means services or labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer of tangible personal property; provided further that the charge for such labor or service is separately billed to the customer and maintained separately in the taxpayer's books and records.

"Engaging", when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

"Equivalent Excise Tax" means either:

(1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or
(2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or

(3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

"Federal Government" means the United States Government, its departments and agencies; but not including national banks or federally chartered or insured banks, savings and loan institutions, or credit unions.

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-1387. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process.

"Hotel" means any public or private hotel, inn, hostelry, tourist home, house, motel, rooming house, apartment house, trailer, or other lodging place within the Town offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes, or primary health care facilities.

"Jet Fuel" means jet fuel as defined in A.R.S. Section 42-1571.

"Job Printing" means the activity of copying or reproducing an article by any means, process, or method. "Job printing" includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

"Lessee" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Lessor" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Licensing (for Use)" means any agreement between the user ("licensee") and the owner or the owner's agent ("licensor") for the use of the licensor's property whereby the licensor receives consideration, where such agreement does not qualify as a "sale" or "lease" or "rental" agreement.

"Lodging (Lodging Space)" means any room or apartment in a hotel or any other provider of rooms, trailer spaces, or other residential dwelling spaces; or the furnishings or services and accommodations accompanying the use and possession of said dwelling space, including storage or parking space for the property of said tenant.

"Manufactured Buildings" means a manufactured home, mobile home or factory built building, as defined in A.R.S. Section 41-2142.

"Manufacturer" means a person engaged or continuing in the business of fabricating, producing, or manufacturing products, wares, or articles for use from other forms of tangible personal property, imparting to such new forms, qualities, properties, and combinations.

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 9A-432 for such use. This definition shall not include:

(1) janitorial equipment and supplies.
(2) office equipment, office furniture, and office supplies.
(3) motor vehicles licensed for use upon the highways of the State.

"Modifier" means a person who reworks, changes, or adds to products, wares, or articles of manufacture.

"Nonprofit Entity" means any entity organized and operated exclusively for charitable purposes, or operated by the Federal Government, the State, or any political subdivision of the State.

"Occupancy (of Real Property)" means any occupancy or use, or any right to occupy or use, real property including any improvements, rights, or interests in such property.

"Out-of-Town Sale" means the sale of tangible personal property and job printing if all of the following occur:

(1) transference of title and possession occur without the Town; and
(2) the stock from which such personal property was taken was not within the corporate limits of the Town; and
(3) the order is received at a permanent business location of the seller located outside the Town; which location is used for the substantial and regular conduct of such business sales activity. In no event shall the place of business of the buyer be determinative of the situs of the receipt of the order.

For the purpose of this definition it does not matter that all other indicia of business occur within the Town, including, but not limited to, accounting, invoicing, payments, centralized purchasing, and supply to out-of-Town storehouses and out-of-Town retail branch outlets from a primary storehouse within the Town.

"Out-of-State Sale" means the sale of tangible personal property and job printing if all of the following occur:

(1) The order is placed from without the State of Arizona; and
(2) the order is placed by other than a resident of the State to be determined in a manner similar to "resides within the Town"; and
(3) the property is delivered to the buyer at a location outside the State; and
(4) the property is purchased for use outside the State.

"Owner-Builder" means an owner or lessor of real property who, by himself or by or through others, constructs or has constructed or reconstructs or has reconstructed any improvement to real property.

"Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the Federal Government, this State, or any political subdivision or agency of this State. For the purposes of this Chapter, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

"Prosthetic" means any of the following tangible personal property if such items are prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon, naturopath, optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser, physician assistant, nurse practitioner or veterinarian:

(1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.
(2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.
(3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.
(4) drugs or medicine, including oxygen.
(5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.
(6) durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by Medicare, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

"Qualifying Community Health Center" means an entity that is recognized as nonprofit under 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

(1) The sole provider of primary care in the community.
(2) A nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.

"Qualifying Health Care Organization" means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and

that uses at least eighty percent (80%) of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue.

"Qualifying Hospital" means:

(1) a licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(2) a licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(3) a hospital, nursing care institution or residential care institution which is operated by the Federal Government, this State or a political subdivision of this State.

"Receipt (of Notice) by the Taxpayer" means the earlier of actual receipt or the first attempted delivery by certified United States mail to the taxpayer's address of record with the Tax Collector.

"Rental Equipment" means tangible personal property sold, rented, leased, or licensed to customers to the extent that the item is actually used by the customer for rental, lease, or license to others; provided that:

(1) (Reserved)

(2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and

(3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment", provided that:

(1) the documentation relating to each purchased item so claimed specifically itemizes to the vendor the actual item of "rental equipment" to which the purchased item is intended to be attached as a repair or replacement part; and

(2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and

(3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for

compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Repairer" means a person who restores or renews products, wares, or articles of manufacture.

"Resides within the Town" means in cases other than individuals, whose legal addresses are determinative of residence, the engaging, continuing, or conducting of regular business activity within the Town.

"Restaurant" means any business activity where articles of food, drink, or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant", and not a "retailer".

"Retail Sale (Sale at Retail)" means the sale of tangible personal property, except the sale of tangible personal property to a person regularly engaged in the business of selling such property.

"Retailer" means any person engaged or continuing in the business of sales of tangible personal property at retail.

"Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of property for a consideration. "Sale" includes any transaction whereby the possession of such property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes the fabrication of tangible personal property for consumers who, in whole or in part, furnish either directly or indirectly the materials used in such fabrication work.

"Speculative Builder" means either:

(1) an owner-builder who sells or contracts to sell, at anytime, improved real property (as provided in Section 9A-416) consisting of:
   A) custom, model, or inventory homes, regardless of the stage of completion of such homes; or
   B) improved residential or commercial lots without a structure; or

(2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
   A) prior to completion; or
   B) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

"Substantially Complete" means the construction contracting or reconstruction contracting:
(1) has passed final inspection or its equivalent; or
(2) certificate of occupancy or its equivalent has been issued; or
(3) is ready for immediate occupancy or use.

"Supplier" means any person who rents, leases, licenses, or makes sales of tangible personal property within the Town, either directly to the consumer or customer or to wholesalers, jobbers, fabricators, manufacturers, modifiers, assemblers, repairers, or those engaged in the business of providing services which involve the use, sale, rental, lease, or license of tangible personal property.

"Tax Collector" means the Town Council or their designee or agent for all purposes under this Chapter.

"Taxpayer" means any person liable for any tax under this Chapter.

"Telecommunication Service" means any service or activity connected with the transmission or relay of sound, visual image, data, information, images, or material over a communications channel or any combination of communications channels.

"Utility Service" means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

Reg. 9A-100.1. Brokers

(a) For the purposes of proper administration of this Chapter and to prevent evasion of taxes imposed, brokers shall be wherever necessary treated as taxpayers for all purposes, and shall file a return and remit the tax imposed on the activity on behalf of the principal. No deduction shall be allowed for any commissions or fees retained by such broker, except as provided in Section 9A-405, relating to advertising commissions.
(b) Brokers for vendors. A broker acting for a seller, lessor, or other similar person deriving gross income in a category upon which this Chapter imposes a tax shall be liable for such tax, even if his principal would not be subject to the tax if he conducted such activity in his own behalf, by reason of the activity being deemed a "casual" one. For example:
    (1) An auctioneer or other sales agent of tangible personal property is subject to the tax imposed upon retail sales, even if such sales would be deemed "casual" if his principal had sold such items himself.
    (2) A property manager is subject to the tax imposed upon rental, leasing, or licensing of real property, even if such rental, leasing, or licensing

would be deemed “casual” if his principal managed such real property himself.

(c) Brokers for vendees. A broker acting solely for a buyer, lessee, tenant, or other similar person who is a party to a transaction which may be subject to the tax, shall be liable for such tax and for filing a return in connection with such tax only to the extent his principal is subject to the tax.

(d) The liability of a broker does not relieve the principal of liability except upon presentation to the Tax Collector of proof of payment of the tax, and only to the extent of the correct payment. The broker shall be relieved of the responsibility to file and pay taxes upon the filing and correct payment of such taxes by the principal.

(e) (Reserved)

(f) Location of Business. Retail sales by brokers acting for another person shall be deemed to have occurred at the regular business location of the broker, in a manner similar to that used to determine “out-of-Town sales”; provided, however, that an auctioneer is deemed to be engaged in business at the site of each auction.

Reg. 9A-100.2. Delivery, installation, or other direct customer services.

(a) “Delivery Charges” exist only when the total charges to the ultimate customer or consumer include, as separately charged to the ultimate customer, charges for delivery to the ultimate consumer, whether the place of delivery is within or without the Town, and when the taxpayer's books and records show the separate delivery charges.

  (1) Identification to the customer or consumer that the listed price has “delivery included” or other similar expression is insufficient to show the delivery as a separate charge. Only the separately stated charge for the delivery shall be deemed a “delivery charge”.

  (2) Freight in. Charges for delivery from place of production or the manufacturer to the vendor either directly or through a chain of wholesalers or jobbers or other middlemen are deemed “freight-in” and are not considered delivery.

(b) “Installation”, as used in this definition, relates only to tangible personal property. Installation to real property is deemed construction contracting in this Chapter. Examples of installation relating to tangible personal property are: installing a radio in an automobile; applying sun screens on the windows of a boat; installing cabinets, carpeting, or “built-in appliances” to a camper or motorized recreational vehicle.

(c) Repair of tangible personal property is not included in this definition. See Regulation 9A-465.1.

(d) “Direct Customer Services” means services other than repair rendered directly to the customer. Services or labor provided by any person prior to the transfer of tangible personal property to the customer or consumer are not included in this definition. In the following examples, the requirements of

subsection (e) below are referred to by the words “identify” or “identification”.

(1) A retailer sells a customer a $100 “plug-in” appliance, with a $25 delivery and installation charge. If the retailer identifies the $25 delivery and installation charge, it is a charge for direct customer services.

(2) A caterer charges his customer $1,000 for the food and drink served, $300 for setup and site cleanup, and $500 for bartender and waiters. If all charges are properly identified, only the $300 for set up and cleanup is a charge for direct customer services, and the $1,500 for food and service is restauranting gross income.

(3) Persons engaged in engraving on wood, metal, stone, etc. or persons engaged in retouching photographs or paintings may consider such charges for labor as direct customer services.

(4) All charges by a photographer resulting in the sale of a photograph (sitting charges, developing, making enlargements, retouching, etc.) for services that occur prior to transfer of tangible personal property are not direct customer services.

(5) An equipment rental company charging $25 for delivery may consider such delivery charge as a charge for direct customer service only if such charge is properly identified.

(6) Even if identified, charges for labor incurred in the production of any manufactured article or of a custom-made article (jewelry, artwork, tailoring, draperies, etc.) are not included in this definition, as such labor occurs prior to the transfer of property.

(e) Recordkeeping requirements.

(1) Any person who engages in transactions involving these services must:

(A) Separately bill, invoice, or charge the customer for such services in a manner by which the customer or consumer may readily identify the specific dollar amount of the service charge; and

(B) Maintain business books and records in a manner in which the separate charge for such services can be clearly identified, to the satisfaction of the Tax Collector.

(2) Rendering a statement to a customer for a transaction involving such services and the transfer of tangible personal property which only indicates the total amount of the charges with words such as “services included” or “charge includes labor and parts” or similar a expression does not satisfy the requirements of this subsection.

Reg. 9A-100.3. Retailers.

When in the opinion of the Tax Collector it is necessary for efficient administration of this Chapter, he may regard any salesman, representative, peddler, canvasser, or agent of any dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains tangible personal property for sale, rental, lease, or license as a retailer for the purposes of this Chapter,

irrespective of whether he is making sales, rentals, leases, or licenses on his own behalf or on behalf of others. The Tax Collector may also regard such dealer, distributor, supervisor, or employer as a retailer for the purposes of this Chapter.

Reg. 9A-100.4. Out-of-Town/Out-of-State Sales: Sales to Indians.

Sales to Indians or tribal councils by vendors located within the Town shall be deemed sales within the Town, unless all of the following conditions exist:

(1) the vendor has properly accounted for such sales, in a manner similar to the recordkeeping requirements for out-of-Town sales; and,

(2) all of the following elements of the sale exist:
   - (A) solicitation and placement of the order occurs on the reservation; and
   - (B) delivery is made to the reservation; and
   - (C) payment originates from the reservation.

Sec. 9A-110. Definitions: Income-producing capital equipment

(a) The following tangible personal property, other than items excluded in subsection (d) below, shall be deemed "income-producing capital equipment" for the purposes of this Chapter:
   - (1) machinery or equipment used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining", and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.
   - (2) mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.
   - (3) tangible personal property, sold to persons engaged in business classified under the telecommunications classification, consisting of central office switching equipment; switchboards; private branch exchange equipment; microwave radio equipment, and carrier equipment including optical fiber, coaxial cable, and other transmission media which are components of carrier systems.
   - (4) machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.
   - (5) pipes or valves four inches (4″) in diameter or larger, used to transport oil, natural gas, artificial gas, water, or coal slurry.

(6) aircraft, navigational and communication instruments, and other accessories and related equipment sold to:
   (A) a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or united states mail in intrastate, interstate or foreign commerce.
   (B) any foreign government for use by such government outside of this State.
   (C) persons who are not residents of this State and who will not use such property in this State other than in removing such property from this State. This subdivision also applies to corporations that are not incorporated in this State, regardless of maintaining a place of business in this State, if the principal corporate office is located outside this State and the property will not be used in this State other than in removing the property from this State.
(7) machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.
(8) railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property in intrastate or interstate transportation for hire.
(9) machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.
(10) buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by a city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.
(11) metering, monitoring, receiving, and transmitting equipment acquired by persons engaged in the business of providing utility services or telecommunications services; but only to the extent that such equipment is to be used by the customers of such persons and such persons separately charge or bill their customers for use of such equipment.
(12) groundwater measuring devices required under A.R.S. § 45-604.
(13) machinery or equipment used in research and development. In this paragraph, “research and development” means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an

integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

(14) (Reserved)

(15) included in income producing capital equipment are liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations or research and development if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involving direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This subsection does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this Regulation.

(b) The term “income-producing capital equipment” shall further include ancillary machinery and equipment used for the treatment of waste products created by the business activities which are allowed to purchase “income-producing capital equipment” defined in subsection (a) above.

(c) The term “income-producing capital equipment” shall further include repair and replacement parts, other than the items in subsection (d) below, where the property is acquired to become an integral part of another item itemized in subsections (a) or (b) above.

(d) The tangible personal property defined as income-producing capital equipment in this Section shall not include:

(1) expendable materials.

(2) janitorial equipment and hand tools.

(3) office equipment, furniture, and supplies.

(4) tangible personal property used in selling or distributing activities.

(5) motor vehicles required to be licensed by the State of Arizona, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection (a)(10) above without regard to the use of such motor vehicles.

(6) shops, buildings, docks, depots, and all other materials of whatever kind or character not specifically included as exempt.

(7) motors and pumps used in drip irrigation systems.

(e) For the purposes of this Section:

(1) “aircraft” includes:

(A) an airplane flight simulator that is approved by the Federal Aviation Administration for use as a Phase II or higher flight

simulator under Appendix H, 14 Code of Federal Regulations Part 121.

(B) tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

(2) "other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

Sec. 9A-115. Definitions: computer software; custom computer programming.

(a) "Computer Software" means any computer program, part of such a program, or any sequence of instructions for automatic data processing equipment. Computer software which is not "custom computer programming" is deemed to be tangible personal property for the purposes of this Chapter, regardless of the method by which title, possession, or right to use the software is transferred to the user.

(b) "Custom Computer Programming" means any computer software which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer.

(1) The term does not include a prewritten program which is held or existing for general or repeated sale, lease, or license, even if the program was initially developed on a custom basis for in-house, or for a single customer's, use.

(2) Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the customer.

Reg. 9A-115.1. Computer hardware, software, and data services.

(a) Definitions.

(1) "Computer Hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer, network.

(2) "Computer Software" (also called "computer program") is tangible personal property, and includes:

(A) “Operating Program (Software)” (also called “executive program (software)”), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer's processing capabilities.

(B) “Applied Program (Software)”, which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one computer to another via storage media. Examples of applied programs include: payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.

(3) “Storage Medium” is any hard disk, compact disk, floppy disk, diskette, diskpack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.

(4) A “Terminal Arrangement” (also called “`on-line' arrangement”) is any agreement allowing access to a remote central processing unit through telecommunications via hardware.

(5) A “Computer Services Agreement” (also called “data services agreement”) is an agreement allowing access to a computer through a third-party operator.

(b) For the purposes of this Chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:

(1) Computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.

(2) Computer software which is not custom computer programming. Such prewritten (“canned”) programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:

(A) the entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets

on which or into which the prewritten program has been recorded, coded, or punched.

(B) the entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.

(C) license fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.

(D) the entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.

(E) any charge for the purchase of a maintenance contract which entitles the customer to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services, provided that:

(i) if such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(ii) if such maintenance contract is optional with the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(iii) if such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the storage media containing the improvements or error corrections, then only the charges for such improvements or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.

(c) Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this Chapter:

(1) statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection (e) below.

(2) additional copies of records, reports, manuals, tabulations, etc. "Additional Copies" are any copies in excess to those produced simultaneously with the production of the original and on the same printer, whether such copies are prepared by running the same

program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.

(d) Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.

(e) The following transactions are deemed direct customer services, provided that charges for such services are separately stated and maintained as provided by Regulation 9A-100.2(e):

(1) "Custom (Computer) Programming", which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.

(A) Customer computer programming is deemed a professional service regardless of the form in which the programming is transferred.

(B) Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware, provided that the charges for such are separately stated from the charges for the hardware.

(C) Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease, or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.

(2) Training services related to computer hardware or software, provided further that:

(A) the provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.

(B) training deemed a direct customer service does not include:

(i) training materials, books, manuals, etc. furnished to customers for a charge separate from the charge for training services.

(ii) training provided to customers without separate charge as part of the sale, rental, lease, or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.

(3) The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).

(4) Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports,

graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.

(f) (Reserved)

Sec. 9A-120. (Reserved)

Reg. 9A-120.1. (Reserved)

Article II - Determination of Gross Income

Sec. 9A-200. Determination of gross income: in general.

(a) Gross income includes:
   (1) the value proceeding or accruing from the sale of property, the providing of service, or both.
   (2) the total amount of the sale, lease, license for use, or rental price at the time of such sale, rental, lease, or license.
   (3) all receipts, cash, credits, barter, exchange, reduction of or forgiveness of indebtedness, and property of every kind or nature derived from a sale, lease, license for use, rental, or other taxable activity.
   (4) all other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction.

(b) Barter, exchange, trade-outs, or similar transactions are includable in gross income at the fair market value of the service rendered or property transferred, whichever is higher, as they represent consideration given for consideration received.

(c) No deduction or exclusion is allowed from gross income on account of the cost of the property sold, the time value of money, expense of any kind or nature, losses, materials used, labor or service performed, interest paid, or credits granted.

Reg. 9A-200.1. When deposits are includable in gross income.

(a) Refundable deposits shall be includable as gross income of the taxpayer for the month in which the deposits are forfeited by the lessee.

(b) Nonrefundable deposits for cleaning, keys, pet fees, maintenance, or for any other purpose are deemed gross income upon receipt.

Sec. 9A-210. Determination of gross income: transactions between affiliated companies or persons.

In transactions between affiliated companies or persons, or in other circumstances where the relationship between the parties is such that the gross income from the transaction is not indicative of the market value of the subject matter of the transaction, the Tax Collector shall determine the “market value” upon which the Town Privilege and Use Taxes shall be levied. “Market value” shall correspond as nearly as possible to the gross income from similar transactions of like quality or character by other taxpayers where no common interest exists between the parties, but otherwise under similar circumstances and conditions.

Sec. 9A-220. Determination of gross income: artificially contrived transactions.

The Tax Collector may examine any transaction, reported or unreported, if, in his opinion, there has been or may be an evasion of the taxes imposed by this Chapter and to estimate the amount subject to tax in cases where such evasion has occurred. The Tax Collector shall disregard any transaction which has been undertaken in an artificial manner in order to evade the taxes imposed by this Chapter.

Sec. 9A-230. Determination of gross income based upon method of reporting.

The method of reporting chosen by a taxpayer, as provided in Section 9A-520, necessitates the following adjustments to gross income for all purposes under this Chapter:

(a) Cash basis - When a person elects to report and pay taxes on a cash basis, gross income for the reporting period shall include:
   (1) the total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and
   (2) all amounts received on accounts receivable, conditional sales contract, or other similar transactions, against which no deductions and no exclusions from gross income are allowed. Interest on finance contracts may be deducted if separately itemized on all books and records.

(b) Accrual basis - When a person elects to report and pay taxes on an accrual basis, gross income shall include all gross income for the applicable period regardless of whether receipts are for cash, credit, conditional, or partially deferred transactions, and regardless of whether or not any security document or instrument is sold, assigned, or otherwise transferred to another. Persons reporting on the accrual basis may deduct bad debts, provided that:
   (1) the amount deducted for the bad debt must be deducted from gross income of the month in which the actual charge-off was made, and only to the extent that such amount was actually charged-off, and also only to the extent that such amount is or was included as taxable gross income; and
   (2) if any amount is subsequently collected on such charged-off account, it shall be included in gross income for the month in which it was collected, without deduction for expense of collection.

Sec. 9A-240. Exclusion of cash discounts, returns, refunds, trade-in values, vendor-issued coupons, and rebates from gross income.

(a) The following items are not included in gross income:
   (1) Cash discounts allowed by the vendor for timely payment, but only discounts allowed against taxable gross income.

(2) The value of property returned by customers to the extent of the amount actually refunded either in cash or by credit and the amount refunded was included in taxable gross income.
(3) The trade-in allowance for tangible personal property accepted as payment, not to exceed the full sales price for any tangible personal property sold, when the full sales price is included in taxable gross income. Trade-in allowances are not allowed for manufactured buildings taxable under Section 9A-427.
(4) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from gross income as a cash discount. Amounts credited or refunded by a vendor for redemption of coupons issued by any person other than the vendor may not be excluded from gross income.
(5) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from gross income as a cash discount. Rebates issued by a person other than the vendor may not be excluded from gross income, even when the vendee assigns his right to the rebate to the vendor.
(6) In computing the tax base, gross proceeds of sales or gross income does not include a manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

(b) If the amount specified in subsection (a) above is credited by a vendor subsequent to the reporting period in which the original transaction occurs, such amount may be excluded from the taxable gross income of that subsequent reporting period, but only to the extent that the excludable amount was reported as taxable gross income in that prior reporting period.

Sec. 9A-250. Exclusion of combined taxes from gross income; itemization; notice; limitations.

(a) When tax is separately charged and/or collected. The total amount of gross income shall be exclusive of combined taxes only when the person upon whom the tax is imposed shall establish to the satisfaction of the Tax Collector that such tax has been added to the total price of the transaction. The taxpayer must provide to his customer and also keep a reliable record of the actual tax charged or collected, shown by cash register tapes, sales tickets, or other accurate record, separating net transaction price and combined tax. If at any time the Tax Collector cannot ascertain from the records kept by the taxpayer the total or amounts billed or collected on account of combined taxes, the claimed taxes collected may not be excluded from gross income, unless such records are completed and/or clarified to the satisfaction of the Tax Collector.
(1) Remittance of all tax charged and/or collected. When an added charge is made to cover Town (or combined) Privilege and Use Taxes, the person upon whom the tax is imposed shall pay the full amount of the

Town taxes due, whether collected by him or not, and in the event he collects more than the amount due he shall remit the excess to the Tax Collector. In the event the Tax Collector cannot ascertain from the records kept by the taxpayer the total or amounts of taxes collected by him, and the Tax Collector is satisfied that the taxpayer has collected taxes in an amount in excess of the tax assessed under this Chapter, the Tax Collector may determine the amount collected and collect the tax so determined in the manner provided in this Chapter.

(2) Itemization. A taxpayer, in order to be entitled to exclude from his gross income any amounts paid to him by customers for combined taxes passed on to the customer, must prove that he has provided his customer with a written record of the transaction showing at a minimum the price before the tax, the combined taxes, and the total cost. This shall be addition to the record required to be kept under subsection (a) above.

(b) When tax has been neither separately charged nor separately collected. When the person upon whom the tax is imposed shall establish by means of invoices, sales tickets, or other reliable evidence, that no added charge was made to cover combined taxes, the taxpayer may exclude tax collected from such income by dividing such taxable gross income by 1.00 plus a decimal figure representing the effective combined tax rate expressed as a fraction of 1.00.

Reg. 9A-250.1. Excess tax collected.

If a taxpayer collects taxes in excess of the combined tax from any customer in any transaction, all such excess tax shall be paid to the taxing jurisdictions in proportion to their effective rates. The right of the taxpayer to charge his customer for his own liability for tax does not allow the taxpayer to enrich himself at the cost of his customers.

Sec. 9A-260. Exclusion of fees and taxes from gross income; limitations.

(a) There shall be excluded from gross income of vendors of motor vehicles those motor vehicle registration fees, license fees and taxes, and lieu taxes imposed pursuant to Title 28, Arizona Revised Statutes in connection with the initial purchase of a motor vehicle, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser of the motor vehicle by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Article III, regarding recordkeeping, are met. For the purpose of the exclusion provided by this subsection only, the terms vendor and vendee shall also apply to a lessor and lessee respectively, of a motor vehicle if, in addition to all other requirements of this subsection, the lease agreement specifically requires the lessee to pay such fees or taxes, and such amounts are separately itemized in the documentation provided to the lessee.

(b) There shall be excluded from gross income of vendors at retail of heavy trucks and trailers, the amount attributable to Federal Excise Taxes imposed by 26 U.S.C. Section 4051, but only to the extent that the provisions of Article III, relating to recordkeeping, have been met.

(c) There shall be excluded from gross income the following fees, taxes, and lieu taxes, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Article III, regarding recordkeeping, are met:
   (1) emergency telecommunication services excise tax imposed pursuant to A.R.S. Section 42-1472. "Emergency telecommunication services" means telecommunication services or systems that use number 911 or a similarly designated telephone number for emergency calls;
   (2) the telecommunication devices for the deaf and the severely hearing and speech impaired excise tax imposed pursuant to A.R.S. Section 42-1472;
   (3) federal excise taxes on communications services as imposed by 26 U.S.C. § 4251;
   (4) car rental surcharge imposed pursuant to A.R.S. Section 48-4234;
   (5) federal excise taxes on passenger vehicles as imposed by 26 U.S.C. §4001(.01);
   (6) waste tire disposal fees, imposed pursuant to A.R.S. Section 44-1302; lead acid battery fees, imposed pursuant to A.R.S. Section 44-1323; and used oil fees imposed pursuant to A.R.S. Section 49-814(B), (C).

(d) There shall be excluded from gross income of vendors of motor vehicles dealer documentation fees, but only to the extent that such fees have been separately itemized and collected from the purchaser of the motor vehicle by the vendor.

Sec. 9A-265. (Reserved)

Sec. 9A-266. Exclusion of motor carrier revenues from gross income.

There shall be excluded from gross income the gross proceeds of sale or gross income derived from any of the following:

(a) A motor carrier's use on the public highways in this State if the motor carrier is subject to tax under A.R.S. Title 28, Chapter 9, Article 6.

(b) A person's use of a lightweight motor vehicle on the public highways in this State if such person is subject to tax under A.R.S. Title 28, Chapter 9, Article 6.

(c) Leasing, renting or licensing a motor vehicle, including lightweight motor vehicles, subject to and upon which the tax has been paid under A.R.S. Title 28, Chapter 9, Article 6.

(d) The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle, to a licensed motor carrier or lightweight motor vehicle operator who is subject to tax under A.R.S. Title 28, Chapter 9, Article 6 and who is engaged in the business of leasing, renting or licensing such property.

Sec. 9A-270. Exclusion of gross income of persons deemed not engaged in business.

(a) For the purposes of this Section, the following definitions shall apply:
   (1) "Federally Exempt Organization" means an organization which has received a determination of exemption, or qualifies for such exemption, under 26 U.S.C. Section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity", "non-licensed business", or "public educational entity".
   (2) "Governmental Entity" means the Federal Government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing; provided further that persons contracting with such a governmental entity to operate any part of a governmentally adopted and controlled program to provide urban mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.
   (3) "Non-Licensed Business" means any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this Chapter.
   (4) "Proprietary Club" means any club which has qualified or would otherwise qualify as an exempt club under the provisions of 26 U.S.C. Section 501 (c)(7), (8), and (9), notwithstanding the fact that some or all of the members may own a proprietary interest in the property and assets of the club.
   (5) "Public Educational Entity" means any educational entity operated pursuant to any provisions of Title 15, Arizona Revised Statutes.

(b) Transactions which, if conducted by any other person, would produce gross income subject to tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a public educational entity; governmental entity, except "proprietary activities" of municipalities as provided by Regulation; or non-licensed business.

(c) Transactions which, if conducted by any other person, would produce gross income subject to the tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:
   (1) Transactions involving proprietary clubs and organizations exempt under 26 U.S.C. Section 501 (c)(7), (8), and (9), where the gross revenue of the activity received from persons other than members and

bona fide guests of members is in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by Regulation. In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.

(2) Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and his administrative interpretations and guidelines.

(3) (Reserved)

(d) Except as may be provided elsewhere in this Chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or non-licensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this Chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:

(1) a statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required, to pay Town Privilege Tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and

(2) the Privilege License number of the otherwise exempt vendee; and

(3) such other information as the Tax Collector may require.

(e) Franchisees or concessionaires operating businesses for or on behalf of any exempt organization, governmental entity, public educational entity, proprietary club, or non-licensed business shall not be considered to be such an exempt organization, club, entity, or non-licensed business, but shall be deemed to be a taxpayer subject to the provisions of this Chapter, except as provided in the definition of governmental entity, regarding urban mass transit.

(f) (Reserved)

Reg. 9A-270.1. Proprietary activities of municipalities are not considered activities of a governmental entity.

The following activities, when performed by a municipality, are considered to be activities of a person engaged in business for the purposes of this Chapter, and not excludable by reason of Section 9A-270:

(a) rental, leasing, or licensing for use of real property to other than another department or agency of the municipality.

(b) producing, providing, or furnishing electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

(c) sale of tangible personal property to the public, when similar tangible personal property is available for sale by other persons, as, for example, at police or surplus auctions.

Reg. 9A-270.2. Proprietary clubs.

(a) Equity requirements. In order to qualify for exclusion under Section 9A-270, a proprietary club must actually be owned by the members. For the purposes of qualification, a club will be deemed to be member-owned if at least eighty-five percent (85%) of the equity of the total amount of club-owned property is owned by bona fide individual members whose membership is represented in the form of shares, certificates, bonds, or other indicia of capital interest. A corporation may be considered an individual owner provided that it owns a membership solely for the benefit of one or more of its employees and it is not engaged in any business activity connected with the operation of the club.

(b) Gross revenue requirements. In computing gross revenue for the computation of this fifteen percent (15%) rule of subsection 9A-270(c)(1),

(1) the following shall be excluded:

(A) membership dues.

(B) membership fees which relate to the general admission to the club on a periodic (or perpetual) basis.

(C) assessments.

(D) special fund raising events, raffles, etc.

(E) donations, gifts, or bequests.

(F) gate receipts, admissions, and program advertising for not more than one tournament in any calendar year.

(2) the following must be included:

(A) green fees, court use fees, and similar charges for the actual use of a facility or part thereof.

(B) pro shop sales if the shop is owned by the club.

(C) golf cart rental if the carts are owned by the club.

(D) rentals, percentages, or commissions received for permitting the use of the premises or any portion thereof by a caterer, concessionaire, professional, or any other person for sales, rental, leasing, licensing, catering, food or beverage service, or instruction.

(E) all receipts from food or beverage sales, room use or rental charge, corkage and catering charges, and similar receipts.

(F) locker and locker room fees and attendants charges if paid to the club.

(G) tournament entry fees other than entry fees for the one annual tournament exempt under subsection (b)(1)(F) above.

Sec. 9A-280. Exclusion of transactions with specified governmental agencies.

Notwithstanding provisions contained elsewhere in this Chapter, “gross income” derived from transactions that would be deemed taxable, if conducted with or for other customers or consumers, shall be deemed exempt from the taxes imposed by this Chapter when the customer or consumer is:

(1) (Reserved)
(2) (Reserved)
(3) (Reserved)
(4) (Reserved)
(5) this Town.

Sec. 9A-285. (Reserved)

Sec. 9A.290. (Reserved)

Article III - Licensing and Recordkeeping

Sec. 9A-300. Licensing requirements.

(a) The following persons shall make application to the Tax Collector for a Privilege License, accompanied by a nonrefundable fee of five dollars ($5.00), and no person shall engage or continue in business or engage in such activities until he shall have such a license:
   (1) every person desiring to engage or continue in business activities within the Town upon which a Privilege Tax is imposed by this Chapter.
   (2) (Reserved)
   (3) every person required to report and pay a tax upon Rental Occupancy, as imposed by Section 9A-440.

(b) A person engaged in more than one activity subject to Town Privilege and Use Taxes at any one business location is not required to obtain a separate license for each activity; provided that, at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged. The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.

(c) Limitation. The issuance of a Privilege License by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

Reg. 9A-300.1. Who must apply for a license.

(a) For the purposes of determining whether a license is required under Section 9A-300, a person shall be deemed to be “engaged in or continuing in business” within the Town, if he meets any of the following conditions:
   (1) He is engaged in any activity subject to the Town's Privilege Taxes as principal or broker.
   (2) He has or maintains within the Town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this Town under the authority of such person or if a corporation its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily or whether such person or subsidiary is authorized or licensed to do business in this State or this Town.
   (3) He is soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the Town from customers, consumers, or users located within the Town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means

of catalogs or other advertising, whether such orders are received or accepted within or without this Town.

(4) (Reserved)

(5) He is required to report and pay the tax upon Rental Occupancy imposed by Section 9A-440.

(b) (Reserved)

Reg. 9A-300.2. (Reserved)

Sec. 9A-305. Special licensing requirements.

(a) Partnerships. Application for a Privilege License for a partnership engaging or continuing in business in the Town shall provide, as a minimum, the names and addresses of all general partners. Licenses issued to persons engaged in business as partners, limited or general, shall be in the name of the partnership.

(b) Corporations. Application for a Privilege License for a corporation engaging or continuing in business in the Town shall provide, as a minimum, the names and addresses of both the Chief Executive Officer and Chief Financial Officer of the corporation. Licenses issued to persons engaged in business as corporations shall be in the name of the corporation.

(c) Multiple Locations or Multiple Business Names. A person engaged in or conducting one or more businesses at two (2) or more locations or under two (2) or more business names shall procure a license for each such location or business name. A “location” is a place of a separate business establishment.

(d) Licenses shall not be issued until all legal requirements are met. It shall be a condition precedent to the issuance of a license that all statutes, ordinances, regulations, and other requirements affecting the public peace, health, and safety be complied with in total.

Sec. 9A-310. Licensing: duration of license; transferability; display.

(a) Except as provided in Section 9A-320, the Privilege License shall be valid until request for cancellation and/or surrender of the license by the licensee or expiration through cessation by the licensee of the business activity for which it was issued.
(b) The Privilege License shall be nontransferable between owners or locations, and shall be on display to the public in the licensee's place of business.
(c) Any licensee who permits his license to expire through cancellation as provided in Section 9A-320, by his request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued, and who thereafter applies for license, shall be granted a new license as an original applicant and shall pay the current license fee. Any licensee who loses or misplaces his Privilege License which is still in effect shall be charged the current license fee for each reissuance of a license.
(d) (Reserved)
(e) (Reserved)
(f) (Reserved)
(g) (Reserved)
(h) (Reserved)
(i) (Reserved)
(j) (Reserved)

Reg. 9A-310.1. (Reserved)

Reg. 9A-310.2. (Reserved)

Reg. 9A-310.3. (Reserved)

Sec. 9A-315. (Reserved)

Sec. 9A-320. Licensing: cancellation; revocation.

(a) Cancellation. The Tax Collector shall be authorized to cancel the Town Privilege License of any licensee as “inactive” if the taxpayer, required to report monthly to the Town, has neither filed any return nor remitted to the Town any taxes imposed by this Chapter for a period of six (6) consecutive months; or, if required to report quarterly, has neither filed any return nor remitted any taxes imposed by this Chapter for two (2) consecutive quarters; or, if required to report annually, has neither filed any return nor remitted any taxes imposed by this Chapter when such annual report and tax are due to be filed with and remitted to the Tax Collector.
(b) Revocation. If any licensee fails to pay any tax, interest, penalty, fee, or sum required to be paid to the Town under this Chapter, or if such licensee fails to comply with any other provisions of this Chapter, the Tax Collector shall be authorized to revoke the Town Privilege License of said licensee.

(c) Notice and Hearing. The Tax Collector shall deliver notice to such licensee of cancellation or revocation of the Privilege License. If within twenty (20) days the licensee so notified requests a hearing, he shall be granted a hearing before the Tax Collector.

(d) After cancellation or revocation of a taxpayer's license, the taxpayer shall not be relicensed until all reports have been filed; all fees, taxes, interest, and penalties due have been paid; and he is in compliance with the provisions of this Chapter.

Sec. 9A-330. Operating without a license.

It shall be unlawful for any person who is required by this Chapter to obtain a Privilege License to engage in or continue in business within the Town without a license. The Tax Collector shall assess any delinquencies in tax, interest, and penalties which may apply against such person upon any transactions subject to the taxes imposed by this Chapter.

Sec. 9A-350. Recordkeeping requirements.

(a) It shall be the duty of every person subject to the tax imposed by this Chapter to keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this Chapter. The books and records must contain, at a minimum, such detail and summary information as may be required by Regulation; or when records are maintained within an electronic data processing (EDP) system, the requirements established by the Arizona Department of Revenue for privilege tax filings will be accepted. It shall be the duty of every person to keep and preserve such books and records for a period equal to the applicable limitation period for assessment of tax, and all such books and records shall be open for inspection by the Tax Collector during any business day.

(b) The Tax Collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:
   (1) only for future reporting periods, and
   (2) only by express determination of the Tax Collector that such specific recordkeeping is necessary due to the inability of the Town to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer.

Reg. 9A-350.1. Recordkeeping: income.

The minimum records required for persons having gross income subject to, or exempt or excluded from, tax by this Chapter must show:

(a) the gross income of the taxpayer attributable to any activity occurring in whole or in part in the Town.

(b) the gross income taxable under this Chapter, divided into categories as stated in the official Town tax return.
(c) the gross income subject to Arizona Transaction Privilege Taxes, divided into categories as stated in the official State tax return.
(d) the gross income claimed to be exempt, and with respect to each activity or transaction so claimed:
    (1) if the transaction is claimed to be exempt as a sale for resale or as a sale, rental, lease, or license for use of rental equipment:
        (A) the Town Privilege License number and State Transaction Privilege Tax License number of the customer (or the equivalent city, if applicable, and state tax numbers of the city and state where the customer resides), and
        (B) the name, business address, and business activity of the customer, and
        (C) evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental, lease, or license for use of rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by Regulation.
    (2) if the transaction is claimed to be exempt for any other reason:
        (A) the name, business address, and business activity of the customer, and
        (B) evidence which would establish the applicability of the exemption to a reasonably prudent businessman acting in good faith. Ordinary business documentation which would reasonably indicate the applicability of an exemption shall be sufficient to relieve the person on whom the tax would otherwise be imposed from liability therein, if he acts in good faith as provided by Regulation.
(e) with respect to those allowed deductions or exclusions for tax collected or charges for delivery or other direct customer services, where applicable, evidence that the deductible income has been separately stated and shown on the records of the taxpayer and on invoices or receipts provided to the customer. All other deductions, exemptions, and exclusions shall be separately shown and substantiated.
(f) with respect to special classes and activities, such other books, records, and documentation as the Tax Collector, by regulation, shall deem necessary for specific classes of taxpayer by reason of the specialized business activity of any such class.
(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this Chapter.

Reg. 9A-350.2. Recordkeeping: expenditures.

The minimum records required for persons having expenditures, costs, purchases and rental or lease or license expenses subject to, or exempt or excluded from, tax by this Chapter are:

(a) the total price of all goods acquired for use or storage in the Town.

(b) the date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the Town.

(c) documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.

(d) the gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.

(e) as applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:

  (1) all construction expenditures and all Privilege and Use Taxes claimed paid, relating to owner-builders and speculative builders.

  (2) disbursement of collected gratuities and related payroll information required of restaurants.

  (3) (Reserved)

    (A) (Reserved)

    (B) (Reserved)

  (4) the validity of any claims of proof of exemption, as provided by Regulation.

  (5) a claimed alternative prior value for reconstruction.

  (6) (Reserved)

  (7) costs used to compute the “computed charge” claimed for retail service and repair.

  (8) payments of tax to the Arizona Department of Transportation and computations therefore, when a motor-vehicle transporter claims such the exemption.

  (9) payments by tenants subject to the tax upon Rental Occupancy imposed by Section 9A-440.

(f) any additional documentation as the Tax Collector, by Regulation, shall deem necessary for any specific class of taxpayer by reason of the specialized business activity of specific exemptions afforded to that class of taxpayer.

(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this Chapter.

Reg. 9A-350.3. Recordkeeping: out-of-Town and out-of-State sales.

(a) Out-of-Town Sales. Any person engaging or continuing in a business who claims out-of-Town sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-Town branches or locations.

(b) Out-of-State Sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:
   (1) documentation of location of the buyer at the time of order placement; and
   (2) documentation of residency of the buyer, determined in the manner one determines if a person "resides within the Town"; and
   (3) shipping, delivery, or freight documents showing where the buyer took delivery; and
   (4) documentation of intended location of use or storage of the tangible personal property sold to such buyer.

Sec. 9A-360. Recordkeeping: claim of exclusion, exemption, deduction, or credit; documentation; liability.

(a) All deductions, exclusions, exemptions and credits provided in this Chapter are conditional upon adequate proof and documentation of such as may be required under A.R.S. Section 42-1328 or by this Chapter or Regulation.
(b) Any person who claims and receives an exemption, deduction, exclusion, or credit to which he is not entitled under this Chapter, shall be subject to, liable for, and pay the tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as if he is delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption it shall not also be collected from the vendor.

Reg. 9A-360.1. Proof of exemption: sale for resale; sale, rental, lease, or license of rental equipment.

A claim of purchase for resale or of purchase, rental, lease, or license for rent, lease, or license is valid only if the evidence is sufficient to persuade a reasonably prudent businessman that the particular item is being acquired for resale or for rental, lease, or license in the ordinary course of business. The fact that the acquiring person possesses a Privilege License number, and makes a verbal claim of "sale for resale or lease" or "lease for re-lease" does not meet this burden and is insufficient to justify an exemption. The "reasonable evidence" must be evidence which exists objectively, and not merely in the mind of the vendor, that the property being acquired is normally sold, rented, leased, or licensed by the acquiring person in the ordinary course of business. Failure to obtain such reasonable evidence at the time of the transaction will be a basis for disallowance of any claimed deduction on returns filed for such transactions.

Reg. 9A-360.2. Proof of exemption: exemption certificate.

For the purpose of proof of exemption, in transactions other than those in which the proof is set by standard documentation as detailed in Regulations 9A-350.1 and 9A-360.1, the minimum acceptable proof and documentation for each transaction shall be the completion, at the time of the transaction, in all material respects, of a certificate containing all the information set forth below. For the purpose of validating the vendor's claim of exemption, such certificate is sufficient if executed by any person with apparent authority to act for the customer, and the information provided validates the claim.

INVALID UNLESS COMPLETED IN FULL

VENDOR'S NAME _____ Sales Invoice No. _____

Customer's Exemption Claim
Town of Springerville Privilege License (Sales) Tax

Customer's Business Name: _____

Customer's Business Address: _____

Specific Business Activity: _____
(e.g., if retailer, lessor, or
manufacturer, specify items _____
leased, sold or made, i.e.,
cars, computers, clothes, etc.) _____

Customer's License Nos. _____ City: _____ State: _____

ITEMS CLAIMED AS EXEMPT FROM TAX

_____ : All Items on This Invoice or Purchase Order.
or
_____ : Only Those Items marked with An "E".

REASON FOR CLAIMED EXEMPTION:

_____ : The items claimed as exempt are sold, rented, leased, or licensed by the above named customer in the normal course of its business activity.
or
_____ : The items claimed as exempt are exempt from the Town of Springerville Privilege Tax for the following specific reason(s):

CUSTOMER'S CERTIFICATE

I certify that the above information is accurate to the best of my information and belief, and that I am authorized by the Customer above to acquire the items claimed as exempt on a tax-free basis on its behalf. I further understand that the making of a false or fraudulent claim to obtain a tax exemption is a Class One Misdemeanor under City Code Section 9A-580.

_____ _____
Name Date

_____
Title

Sec. 9A-370. Inadequate or unsuitable records.

In the event the records provided by the taxpayer are considered by the Tax Collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable under the provisions of this Chapter, it is the responsibility of the taxpayer either:

(1) to provide such other records required by this Chapter or Regulation; or

(2) to correct or to reconstruct his records, to the satisfaction of the Tax Collector.

Article IV - Privilege Taxes

Sec. 9A-400. Imposition of Privilege Taxes; presumption.

(a) There are hereby levied and imposed, subject to all other provisions of this Chapter, the following Privilege Taxes for the purpose of raising revenue to be used in defraying the necessary expenses of the Town, such taxes to be collected by the Tax Collector:
   (1) a Privilege Tax upon persons on account of their business activities, to the extent provided elsewhere in this Article, to be measured by the gross income of persons, whether derived from residents of the Town or not, or whether derived from within the Town or from without.
   (2) a Privilege Tax upon certain persons for the privilege of occupancy of real property, in accordance with the provisions of Section 9A-440.

(b) Taxes imposed by this Chapter are in addition to others. Except as specifically designated elsewhere in this Chapter, each of the taxes imposed by this Chapter shall be in addition to all other licenses, fees, and taxes levied by law, including other taxes imposed by this Chapter.

(c) Presumption. For the purpose of proper administration of this Chapter and to prevent evasion of the taxes imposed by this Chapter, it shall be presumed that all gross income is subject to the tax until the contrary is established by the taxpayer.

(d) Limitation of exemptions, deductions, and credits allowed against the measure of taxes imposed by this Chapter. All exemptions, deductions, and credits set forth in this Chapter shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

Sec. 9A-405. Advertising.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of “local advertising” by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from “local advertising”. All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered “Local Advertising” except the following:
   (1) the advertising of a product or service which is sold or provided both within and without the State by more than one “commonly designated business entity” within the State, and in which the advertisement names either no “commonly designated business entity” within the State or more than one “commonly designated business entity”. “Commonly Designated Business Entity” means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one

legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.

(2) the advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.

(3) the advertising of a product which may only be purchased from an out-of-State supplier.

(4) political advertising for United States Presidential and Vice Presidential candidates only.

(5) advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.

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

(b) (Reserved)

Reg. 9A-405.1. Local advertising examples.

For the purposes of illustration only, and not by way of limitation, the following are provided as examples of local advertising subject to the tax:

(1) retail sales and rental establishments doing business within the State when only one commonly designated business entity is identified by name in the advertisement.

(2) financial institutions doing business within the State whether part of a national chain or local business only.

(3) sales of real estate located within the State.

(4) health care facilities located within the State.

(5) hotels, motels, and apartments, whether a national chain or local so long as the advertisement identifies any location within the State.

(6) brokers doing business within the State whether stockbrokers, real estate brokers, insurance brokers, etc.

(7) nonprofit organizations, which even though tax exempt, have an office, whether national, local, or branch, within the State.

(8) political activity, except United States Presidential and Vice Presidential candidates.

(9) restaurants or food service establishments which have one or more branches, outlets, or franchises within the State even though the local franchisee or licensee may not be responsible for the placement of the advertisement.

(10) services provided by individuals or entities within the State such as doctors, lawyers, architects, hairdressers, auto repair shops, counseling services, utilities, contractors, auction houses, etc.

(11) coupons redeemable only at a single commonly designated business entity within the State.

(12) theater, sports, and other entertainment events held at locations within the State.

Reg. 9A-405.2. Advertising activity within the Town.

(a) In General. Except as provided elsewhere in this regulation, a person engaged in advertising activity shall be considered to be doing business entirely within the Town if all or a major portion of the dissemination facilities such as broadcasting studios, printing plants, or distribution centers are located within the Town limits. Remote studios patched to an in-Town studio and subject to engineering modulation or control at the in-Town studio are considered studios doing business in the Town.
(b) Billboards and other outdoor advertising companies shall be considered to be doing business within the Town to the extent they have billboards or similar displays within the Town.
(c) Publishers and distributors of newspaper and other periodicals shall be subject to the tax upon advertising imposed by Section 9A-405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 9A-435.

Sec. 9A-407. (Reserved)

Reg. 9A-407.1. (Reserved)

Sec. 9A-410. Amusements, exhibitions, and similar activities.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the following type or nature of businesses:
    (1) operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.
    (2) health spas, fitness centers, dance studios, or other persons who charge for the use of premises for sports, athletic, other health-related activities or instruction, whether on a per-event use, or for long-term usage, such as membership fees.
(b) (Reserved)

Sec. 9A-415. Construction contracting: construction contractors.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.
   (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
   (2) (Reserved)
   (3) gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 9A-427.

(b) Deductions.
   (1) Gross income derived from acting as a “subcontractor” shall be exempt from the tax imposed by this Section.
   (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).
   (3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
      (A) Section 9A-465, Subsections (g) and (p)
      (B) (Reserved)
   (4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9A-110, that is deducted from the retail classification pursuant to Section 9A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, ”permanent attachment” means at least one of the following:
      (A) To be incorporated into real property.
      (B) To become so affixed to real property that it becomes part of the real property.
      (C) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 9A-465, Subsection (g) shall be exempt from the tax imposed under this Section.

(7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticulture or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.

(c) "Subcontractor" means a construction contractor performing work for either:

(1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his Town Privilege License number.

(2) an owner-builder who has provided the subcontractor with a written declaration that:

(A) the owner-builder is improving the property for sale; and

(B) the owner-builder is liable for the tax for such construction contracting activity; and

(C) the owner-builder has provided the contractor his Town Privilege License number.

(3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his Town Privilege License number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

Reg. 9A-415.1. Distinction between the categories of construction contracting.

For the purposes of this Chapter, transactions involving improvements to, or sales of, real property are designated into one of the following categories, and these categorizations shall apply, whether or not a person designates himself as a contractor, construction manager, developer, or otherwise:

(a) A person performing improvements to real property is one of the following:
  (1) an “Owner-Builder” when the work is performed by the owner or lessor or lessee-in-possession. An “owner-builder” may also be a “speculative builder”.
  (2) a “Construction Contractor” when performing work for the owner or lessor or lessee-in-possession of the real property, unless that person has provided a written declaration stating that:
    (A) the owner-builder is improving the property for sale; and
    (B) the owner-builder is liable for the tax for such construction contracting activity; and
    (C) the owner-builder has provided the contractor his Town Privilege License number.
  (3) a “Subcontractor” as provided in Section 9A-415 (c).
(b) An owner or lessor (“owner-builder”) of improved real property is one of the following:
  (1) a “Speculative Builder” as provided in Section 9A-100; or
  (2) an “owner builder who is not a speculative builder” in all other cases.
(c) The terms “owner”, “lessor”, and “lessee-in-possession” shall be deemed to include any authorized agent for such person.

Reg. 9A-415.2. Distinction between construction contracting and certain related activities.

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:
  (1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.
  (2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.
  (3) Rental of pumps or cranes is rental of tangible personal property, whether or not an operator is provided with the equipment rented.
(b) Distinction between construction contracting, retail, and certain direct customer service activities.
  (1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.

(2) Items attached or installed on tangible personal property are retail sales.
(3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).
(4) Demolition, earth moving, and wrecking activities are considered construction contracting.

(c) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(d) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.
(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.
(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.
(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.
(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Sec. 9A-416. Construction contracting: speculative builders.

(a) The tax shall be equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the Town.
(1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
(2) "Improved Real Property" means any real property:
(A) upon which a structure has been constructed; or
(B) where improvements have been made to land containing no structure (such as paving or landscaping); or
(C) which has been reconstructed as provided by Regulation; or
(D) where water, power, and streets have been constructed to the property line.
(3) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term).

In the case of multiple unit projects, “sale” refers to the sale of the entire project or to the sale of any individual parcel or unit.

(4) “Partially Improved Residential Real Property”, as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

(b) Exclusions.

(1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.

(2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.

(3) (Reserved)

(4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:

(A) The speculative builder purchasing the partially improved residential real property has a valid Town privilege license for construction contracting as a speculative builder; and

(B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the Town at the time of sale of the partially improved residential real property; and

(C) The seller also:

(i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and

(ii) retains a copy of the written declaration provided by the buyer for the transaction; and

(iii) is properly licensed with the Town as a speculative builder and provides the Town with the written declaration attached to the Town privilege tax return where he claims the exclusion.

(c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the provisions, relating to Exemptions, deductions and tax credits:

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 9A-465, Subsections (g) and (p)
(ii) (Reserved)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 9A-465, Subsection (g) shall be exempt from the tax imposed under this Section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9A-110, that is deducted from the retail classification pursuant to Section 9A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For

purposes of this paragraph, “permanent attachment” means at least one of the following:

(i) To be incorporated into real property.

(ii) To become so affixed to real property that it becomes part of the real property.

(iii) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(3) Tax credits. The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector.

(A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of privilege taxes paid to this town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

Reg. 9A-416.1. Speculative builders: homeowner's bona fide non-business sale of a family residence.

(a) A sale of a custom home, regardless of the stage of completion of such home shall be considered a “homeowner's bona fide non-business sale” and not subject to the tax on speculative builders if:

(1) the property was actually used as the principal place of family residence or vacation residence by the immediate family of the seller for the six (6) months next prior to the offer for sale; and

(2) the seller has not sold more than two (2) such residences (or, if the residence is a vacation residence, two (2) such vacation residences) within the thirty-six (36) months immediately prior to the offer for sale; and

(3) the seller has not licensed, leased, or rented the sold premises for any period within twenty-four (24) months prior to the offer for sale.

(b) In the event that a homeowner of a family residence contracts with a licensed construction contractor for improvements to a residence, the construction contracting on a family residence shall be presumed to be for an owner's bona fide non-business purpose and all construction contractors

shall be required to report and pay the tax imposed on all such improvements.

(c) Purchases by a homeowner of tangible personal property for inclusion in any construction, alteration, or repair of his residence shall be subject to tax as retail sales to the ultimate consumer.

(d) "Owner" and "Homeowner" as used in this Regulation shall only mean an individual, and no other entity, association, or representative shall qualify; except that an administrator, executor, personal representative, or guardian in guardianship or probate proceedings, for the estate of a deceased or incompetent person or a minor, may claim "homeowner" status for such person if such person would have otherwise qualified with respect to the specific property involved.

Reg. 9A-416.2. Reconstruction contracting.

(a) "Reconstruction (of Real Property)" shall mean the subdividing of real property and, in addition, all construction contracting activities performed upon said real property; provided, however, that each of the following conditions are met:
   (1) a structure existed on said real property prior to the reconstruction activity; and
   (2) the "prior value" of said structure exceeds fifteen percent (15%) of the "prior value" of the integrated property (land, improvements, and structure); and
   (3) the total cost of all construction contracting activities performed on said real property in the twenty-four (24) month period prior to the sale of any part of the real property exceeds fifteen percent (15%) of the "prior value" of the real property; and
   (4) the structure which existed on the real property prior to the reconstruction activity still exists in some form upon the property, and is included, in whole or in part, in the property sold.

(b) Except as provided in subsection (c) below, "prior value" means the value of the total integrated property, with improvements, as existing immediately prior to any reconstruction activity. Where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary tax purposes is intended to represent the property's fair market value, "prior value" shall be the property's full cash value for secondary property tax purposes as determined by the County Assessor in the year immediately preceding the year in which the reconstruction improvement(s) are or could have been included in the County Assessor's valuation. If the County Assessor's valuation is contested or appealed, the final determination at either the administrative or judicial level shall apply. Where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary property tax purposes is not intended to represent the property's fair market value, "prior value" shall be the property's fair market value prior to the reconstruction improvement(s).

(c) "Alternative Prior Value" shall mean that as an alternative to the "prior value" defined above, the taxpayer may use his actual cost of the reconstructed property prior to the reconstruction, provided that evidence of such cost is presented to the Tax Collector and is determined by the Tax Collector, in his sole discretion, to be satisfactory. Such evidence shall consist, at a minimum, of proof of the actual, arms-length acquisition price, accompanied by a full appraisal of all property involved which appraisal shall have been performed by a real estate broker or MAI appraiser specifically for the purpose of assisting in the acquisition and further shall have been performed on behalf of the seller or a lending institution which has lent at least sixty-five percent (65%) of the acquisition price. (Only long term lending - not interim or construction financing will be considered.) This alternative value shall be used only if the property was acquired by the reconstruction taxpayer not more than thirty-six (36) months prior to a "sale" as defined below.

(d) A "sale" for the purpose of determining "alternative prior value" or "reconstruction" only shall be deemed to have occurred as of the date of the execution of a contract of sale or a deed (joint tenancy or warranty) whichever is earlier, to a purchaser or grantee of any single residential or other occupancy unit. In addition to the foregoing, a lease with option to purchase a single residential unit shall be considered a "sale" at the date of execution of such lease if said option is exercisable by the lessee in not later than nine (9) months. Further in the case of cooperative apartments, the sale date shall be the date of execution of the contract selling (subject or not to encumbrances, liens or security interests) of a share, or a sufficient number of shares which entitle the purchaser to the occupancy of a residential unit. In all cases a person shall include a husband and wife as a community, or any co-occupants of a single unit as joint tenants.

Sec. 9A-417. Construction contracting: owner-builders who are not speculative builders.

(a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to three percent (3%) of:
   (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 9A-415(c)(2); and
   (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) The tax liability of this Section is subject to the following provisions relating to exemptions, deductions and tax credits.
   (1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductive from privilege or use tax under:

(i) Section 9A-465, Subsection (g) and (p)

(ii) (Reserved)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility fro the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 9A-465, Subsection (g) shall be exempt from the tax imposed under this Section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%)

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9A-110, that is deducted from the retail classification pursuant to Section 9A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists

of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(i) To be incorporated into real property.

(ii) To become so affixed to real property that it becomes part of the real property.

(iii) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(3) Tax credits. The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector.

(A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of privilege taxes paid to this town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

(c) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 9A-540, will be based on reportable date.

(d) (Reserved)

Sec. 9A-418. (Reserved)

Sec. 9A-420. (Reserved)

Sec. 9A-425. Job printing.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

(b) The tax imposed by this Section shall not apply to:

(1) job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.
(2) out-of-Town sales.
(3) out-of-State sales.
(4) (Reserved)
(5) Sales of job printing to any a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
(6) (Reserved)

Reg. 9A-425.1. Distinction between job printing and certain related activities.

(a) Computerized Printing. Computerized versions of all items which would be taxable under Section 9A-425 if performed without computerized assistance are considered taxable under that Section, and therefore, are not exempt services.
(b) Book publishing. The printing of books shall be deemed job printing. Sales of books shall be deemed retail sales.
(c) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.

Sec. 9A-427. Manufactured buildings.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income, including site preparation, moving to the site, and/or set-up, upon every person engaging or continuing in the business activity of selling manufactured buildings within the Town. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.
(b) Sales of used manufactured buildings are not taxable.
(c) The sale prices of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this Section. Sales of such items are subject to the tax under Section 9A-460.
(d) Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.

Sec. 9A-430. Timbering and other extraction.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the following businesses:

(1) felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.
(2) extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the Town, regardless of the place of sale of the product or the fact that delivery may be made to a point without the Town or without the State.

(c) If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section.

(d) (Reserved)

Sec. 9A-432. Mining

(a) The tax rate shall be at an amount equal to one tenth of one percent (.1%), not to exceed one tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit, or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product mined, smelted or produced for sale, profit, or commercial use, when such activity occurs within the Town, regardless of the place of sale of the product or the fact that delivery may be made to a point without the town or without the State.

(c) If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section.

Sec. 9A-435. Publishing and periodicals distribution.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business activity of:

(1) publication of newspapers, magazines, or other periodicals when published within the Town, measured by the gross income derived from notices, subscriptions, and local advertising as defined in Section 9A-405. In cases where the location of publication is both within and without this State, gross income subject to the tax shall refer only to gross income derived from residents of this State or generated by permanent business locations within this State.

(2) distribution or delivery within the Town of newspapers, magazines, or other periodicals not published within the Town, measured by the gross income derived from subscriptions.

(b) "Location of Publication" is determined by:

(1) location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or

(2) location of either the editorial offices or the printing facilities, if the publisher performs his own physical printing.

(c) "Subscription income" shall include all circulation revenue of the publisher except amounts retained by or credited to carriers or other vendors as compensation for delivery within the State by such carriers or vendors, and further except sales of published items, directly or through distributors, for the purpose of resale, to retailers subject to the Privilege Tax on such resale.

(d) "Circulation", for the purpose of measurement of gross income subject to the tax, shall be considered to occur at the place of delivery of the published items to the subscriber or intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States mails shall be considered to have occurred at the location of publication.

(e) Allocation of taxes between cities and towns. In cases where publication or distribution occurs in more than one city or town, the measurement of gross income subject to tax by the Town shall include:

(1) that portion of the gross income from publication which reflects the ratio of circulation within this Town to circulation in all incorporated cities and towns in this State having substantially similar provisions; plus

(2) only when publication occurs within the Town, that portion of the remaining gross income from publication which reflects the ratio of circulation within this Town to the total circulation of all incorporated cities or towns in this State within which cities the taxpayer maintains a location of publication.

(f) The tax imposed by this Section shall not apply to sales of newspapers, magazines or other periodicals to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

Reg. 9A-435.1. Distinction between publishing of periodicals and certain related activities.

(a) Book publishing shall not be considered publication of newspapers, magazines, or other periodicals for purposes of this Chapter. Sales of books shall be deemed retail sales. The printing of books shall be deemed job printing.
(b) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.

Reg. 9A-435.2. Advertising income of publishers and distributors of newspapers and other periodicals.

Publishers and distributors of newspapers and other periodicals shall be subject to the tax upon advertising imposed by Section 9A-405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 9A-435.

Sec. 9A-440. Rental occupancy.

(a) For the purposes of this Section only, the following definitions shall apply:
    (1) “Landlord“ means any lessor of real property under a pre-existing lease.
    (2) “Pre-existing Lease“ means any written lease, license for use, or rental agreement entered into prior to December 1, 1967; except for the following:
        (A) any bilateral amendment to such written agreement which was entered into subsequent to December 1, 1967, wherein the length of the term or the size of the premises affected is changed or both.
        (B) any such agreement for lodging or lodging space.
    (3) “Rent“ means all consideration paid by the tenant to his landlord or to another in payment of or diminution of his own or his landlord's obligation in connection with the real property occupied by the tenant, whether or not such occupancy is designated as a rent, lease or license for use of real property.
    (4) “Tenant“ means any lessee of real property under a pre-existing lease.
(b) The tax rate shall be at an amount of three percent (3%) of the gross rent paid by a tenant, to the extent of his occupancy of real property in this Town under a pre-existing lease, upon such tenant, for the privilege of such occupancy, subject to the provisions of this Section.
(c) Exclusions. The tax imposed by this Section shall not apply to:
    (1) occupancy by a tenant which the Constitution or laws of the United States or of the State of Arizona prohibit the Town from taxing.
    (2) occupancy by a tenant of a landlord which the Constitution or laws of the United States or of the State of Arizona prohibit the Town from taxing.

(3) occupancy of lodging or lodging space.
(4) occupancy of real property under other than a pre-existing lease.

(d) Duty of landlords. Every landlord of a tenant subject to the tax:
(1) shall collect the tax imposed by this Section from the tenant liable for the tax at the same time as and together with the tenant's periodic or other payment of rent. The tax required to be collected shall constitute a debt owed by the landlord to the Town.
(2) shall be considered a taxpayer subject to all licensing, recordkeeping, and reporting requirements of this Chapter.

(e) Duty of tenants. Every tenant liable for the tax:
(1) shall, in any instance in which the tax has not been collected by his landlord, remit such tax to the Tax Collector, and in such case, be subject to all licensing and reporting requirements of this Chapter.
(2) shall maintain, and provide upon request, books and records sufficient for the Tax Collector to determine the tax liability of such tenant.

(f) Interest and civil penalties shall be the liability of the landlord collecting and remitting the tax; provided, however, that if the landlord can present clear and convincing evidence that the delinquency was caused by the tenant, then said interest and penalties shall be the liability of the tenant.

(g) Extension of rights of appeal to include tenants and landlords.
(1) Any landlord or tenant may avail himself of the provisions of Sections 9A-570 through 9A-575, relating to appeals, and, except as modified hereunder, all provisions of said Sections shall apply.
(2) For the purposes of preserving appeal rights, an assessment against a landlord may be protested and appealed by any tenant paying or liable to pay the tax for the occupancy included in such assessment.
(3) Payment of the tax herein imposed to a landlord by a tenant shall be deemed payment of the tax for the tenant for the purposes of allowing a protest to be initiated under Sections 9A-570 through 9A-575.
(4) The filing of a protest petition by a tenant shall not relieve the landlord of his obligation to report and remit the protested tax, or any subsequent periodic payments of tax governed by the initial protest.

(h) Refunds. Any refunds of taxes authorized by this Chapter shall be made to the tenant. Any refunds of interest and civil penalties authorized by this Chapter shall be made to the person liable for such, as provided in subsection (f) above.

Sec. 9A-444. Hotels.

The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any:

(a) Person.
(b) (Reserved)

Sec. 9A-445. Rental, leasing, and licensing for use of real property.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, or renting real property located within the Town for a consideration, to the tenant in actual possession, or the licensing for use of real property located within the Town for a consideration including any improvements, rights, or interest in such property; provided further that:
   (1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
   (2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
   (3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 9A-470.

(b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

(c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization, to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

(d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.

(e) Exempt from the tax imposed by this Section is gross income derived from the rental, leasing, or licensing for use of real property to any non-profit primary health care facility, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(f) (Reserved)

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 9A-444 of this code.

(k) (Reserved)

(l) (Reserved)

(m) Notwithstanding the other provisions of this Section, the tax imposed by this Section does not apply to the rental, leasing or licensing for use of commercial property.

(n) Notwithstanding the provisions of Section 9A-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.

(o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.

(p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.

(q) Charges to patients receiving "personal care" or "direct care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statues and Title 9 of the Arizona Administrative Code are exempt.

Reg. 9A-445.1. (Reserved)

Reg. 9A-445.3. Rental, leasing, and licensing of real property as lodging: room and board; furnished lodging.

(a) Room and board.
   (1) Rooming houses, lodges, or other establishments providing both lodging and meals, shall maintain a record of the separate charges made for the lodging and the meals.
   (2) The charge for lodging shall be subject to the tax imposed by Section 9A-444 or Section 9A-445. The charge for meals is subject to the tax upon restaurants and bars prescribed by Section 9A-455.

(b) Furnished lodging. A person who provides lodging with furnishings shall be deemed to be only in the business of rental, leasing, and licensing of lodging, and not in the business of rental, leasing, and licensing of such furnishings as tangible personal property, unless:
   (1) Any tenant of any lodging space may choose to rent, lease, or license such lodging space either furnished or unfurnished; and
   (2) The lessor separately charges tenants for lodging and for furnishings; and
   (3) The lessor separately maintains his gross income from lodging and from furnishings separately in his accounting books and records.

   If all of the above conditions are met, such person shall report both sources of income separately to the Town.

Sec. 9A-446. (Reserved)

Sec. 9A-447. Rental, leasing, and licensing for use of real property: additional tax upon transient lodging.

In addition to the taxes levied as provided in Section 9A-444, there is hereby levied and shall be collected an additional tax in an amount equal to one percent (1%) of the gross income from the business activity of any hotel engaging or continuing within the Town in the business of charging for lodging and/or lodging space furnished to any transient. "Transient" means any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.

Reg. 9A-447.1. Gross income from rental, leasing, and licensing for use of real property as lodging or lodging space to transients.

(a) If the charge made by a hotel to a transient includes any charge for services or accommodations in addition to that of lodging and/or the use of lodging space, then such portion of the total charge as represents only the charge for the use of the room and/or lodging space shall be distinctly set out and billed to such transient by such hotel as a separate item, or the entire charge shall be deemed charge for use of lodging space subject to the tax imposed by Section 9A-447.

(b) A separately itemized charge for use of the furnishings contained in lodging or lodging space rented, leased, or licensed to a transient to a transient shall be deemed gross income from the business of renting, leasing, and licensing lodging to a transient. Furthermore, in regard to such tangible personal property, such person is deemed not in the business of rental, leasing, and licensing of tangible personal property for all purposes of this Chapter.

(c) Complimentary food and drink. Persons engaged in the business of rental, leasing, and licensing of lodging to transients shall include charges for complimentary food and drink as gross income from the business of rental, leasing, and licensing of lodging to transients, and shall not be deemed in the restaurant business for all purposes of this Chapter, unless such charges:

    (1) are made only at the request of the transient, or as a separate, optional charge for consuming specific food or drink (for example, "room service" charges); and

    (2) are commensurate with charges for like quantity and type of food consumed by patrons of persons engaged in the restaurant business.

Sec. 9A-450. Rental, leasing, and licensing for use of tangible personal property.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing

in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the Town as provided by Regulation.

(b) Special provisions relating to long-term motor vehicle leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a Privilege Tax or an equivalent excise tax upon the transaction.

(c) Gross income derived from the following transactions shall be exempt from Privilege Taxes imposed by this Section:

(1) rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.

(2) rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.

(3) rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section 9A-410, or to a radio station, television station, or subscription television system.

(4) rental, leasing, or licensing for use of the following:

(A) prosthetics.

(B) income-producing capital equipment.

(C) mining and metallurgical supplies.

These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.

(5) rental, leasing, or licensing for use of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

(6) separately billed charges for delivery, installation, repair, and/or maintenance as provided by Regulation.

(7) charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services.
(8) (Reserved)
(9) rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by Regulation, if such rental, leasing, or licensing had been a sale.
(10) rental, leasing and licensing for use of an alternative fuel vehicle as defined in A.R.S. Section 43-1086 if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

Reg. 9A-450.1. Distinction between rental, leasing, and licensing for use of tangible personal property and certain related activities.

(a) Certain rental, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:
(1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.
(2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.
(3) Rental of pumps or cranes is rental of tangible personal property, regardless of whether or not an operator is included with the equipment rented.
(b) Distinction between equipment rental, leasing, or licensing for use and transporting for hire. The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is considered rental, leasing, or licensing of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Reg. 9A-450.2. Rental, leasing, and licensing for use of tangible personal property: membership fees; other charges.

(a) Membership, admission, or other fees charged by any rental club or limited access lessor are considered part of taxable gross income.

(b) Gross income from rental, leasing, or licensing for use of tangible personal property must include all charges by the lessor to the lessee for repair, maintenance, or other service upon the tangible personal property rented, leased, or licensed.
(c) Sale of a warranty, maintenance, or service contract as a requirement of, or in conjunction with, a rental, leasing, or licensing contract is exempt.

Reg. 9A-450.3. Rental, leasing, and licensing for use of equipment with operator.

In cases where the tangible personal property is rented, leased, or licensed with an operator provided by the lessor, the charge for the operator shall not be includable in the gross income from the rental, lease, or license of such tangible personal property if the charge for the operator and the charge for the use of the equipment are separately itemized to the lessee and separately maintained on the books and records of the lessor.

Reg. 9A-450.4. Rental, leasing, and licensing for use of tangible personal property: semi-permanently or permanently installed tangible personal property.

(a) The term "semi-permanently or permanently installed" means that the item of tangible personal property has and is expected to have at the time of installation a permanent location at the site installed, as under a long-term lease agreement, except that the person using or applying said property may eventually replace it because it has become worn out or has become obsolete or the person ceases to have the right to possession of said property.
(b) An item of tangible personal property is deemed permanently installed if its installation requires alterations to the premises.
(c) Examples of "semi-permanently or permanently installed tangible personal property" include, but are not limited to: computers, duplicating machines, furniture not of portable design, major appliances, store fixtures.
(d) The term does not include mobile transportation equipment or tangible personal property designed for regular use at different locations or customarily used at different locations, as under numerous short-term rental, lease, or license agreements, whether or not such property is in fact so used.
    (1) For example, use of a mobile crane, trencher, automobile, or other similar equipment shall be considered a rental, lease, or license transaction subject to taxation only by the city or town in which such business office of the lessor is based.
    (2) Other similar examples include, but are not limited to: camping equipment, contracting equipment, chain saw, forklift, household items, invalid needs, janitorial equipment, reducing equipment, furniture of

portable design, trucks or trailers, tools, towbars, sump pumps, arc welders.

(e) A rental, lease, or license agreement which specifies that the item in question shall remain, under the terms of the agreement, located within the same city or town for more than one hundred eighty (180) consecutive days shall be sufficient evidence that such rented, leased, or licensed item is "permanently or semi-permanently installed" in said city or town, except when the item is mobile transportation equipment or one of the other types of portable equipment or property described in subsection (d) above.

Reg. 9A-450.5. Rental, leasing, and licensing for use of tangible personal property: delivery, installation, repair, and maintenance charges.

(a) Delivery and installation charges in connection with the rental, leasing, and licensing of tangible personal property are exempt from the tax imposed by Section 9A-450; provided that the provisions of Regulation 9A-100.2 have been met.

(b) Gross income from the sale of a warranty, maintenance, or similar service contract in connection with the rental, leasing, and licensing of tangible personal property shall be exempt.

(c) Separately stated charges for repair not included as part of a warranty, maintenance, or similar service contract relating to the rental, leasing, or licensing of tangible personal property are exempt from the tax imposed by Section 9A-450; however, such income is subject to the provisions of Sections 9A-460 and 9A-465, and the provisions of Regulation 9A-465.1.

Sec. 9A-452. (Reserved)

Sec. 9A-455. Restaurants and Bars.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.

(b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises shall also be allowed to exclude separately charged delivery, set-up, and clean-up charges, provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this Section.

(c) The tax imposed by this Section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care

organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(d) The tax imposed by this Section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-1310.01(A)(48), that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

(e) The tax imposed by this Section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.

(f) For the purposes of this Section, “accessories” means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

Reg. 9A-455.1. Gratuities related to restaurant activity.

Gratuities charged by or collected by persons subject to the tax imposed by Section 9A-455 may be excluded from gross income if:

(1) such charge is separately stated upon the bill, invoice, etc. provided the customer, and such amounts are maintained separately in the books and records of the taxpayer; and

(2) such gratuities are distributed in total to employees of the taxpayer in addition to customary and regular wages.

Sec. 9A-460. Retail sales: measure of tax; burden of proof; exclusions.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.

(b) The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.

(c) Exclusions. For the purposes of this Chapter, sales of tangible personal property shall not include:

  (1) sales of stocks, bonds, options, or other similar materials.

  (2) sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.

  (3) sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.

  (4) gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity

upon which another Section of this Article imposes a tax, shall be considered gross income of that business activity, and are not includable as gross income subject to the tax imposed by this Section.

(5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

(d) Notwithstanding the provisions of subsection (a) above, when the gross income from the sale of a single item of tangible personal property exceeds one thousand dollars ($1,000.00), the three percent (3%) tax rate shall apply to the first $1,000.00. Above $1,000.00, the measure of tax shall be at a rate of two percent (2%).

(e) When this Town and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this Chapter such city or town has sole and exclusive right to such tax.

(f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this Town or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

(g) Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this Section.

Reg. 9A-460.1. Distinction between retail sales and certain other transfers of tangible personal property.

(a) Charges for transfer of tangible personal property included in the gross income of the business activity of persons engaged in the following business activities shall be deemed only as gross income from such business activity and not sales at retail taxed by Section 9A-460:

(1) tangible personal property incorporated into real property as part of reconstruction or construction contracting, per Sections 9A-415 through 9A-418.

(2) (Reserved)

(3) job printing, per Section 9A-425.

(4) mining, timbering, and other extraction, but not sales of sand, gravel, or rock extracted from the ground, per Section 9A-430.

(5) publication of newspapers, magazines, and other periodicals, per Section 9A-435.

(6) rental, leasing, and licensing of real or tangible personal property, per Sections 9A-445 or 9A-450.

(7) restaurants and bars, per Section 9A-455.

(8) telecommunications services, per Section 9A-470.

(9) utility services, per Section 9A-480.

(b) Distinction between construction contracting, retail, and certain direct customer service activities.

(1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.
(2) Items attached or installed on tangible personal property are retail sales.
(3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).
(4) Demolition, earth moving, and wrecking activities are considered construction contracting.

(c) The sale of sand, rock, and gravel extracted from the ground shall be deemed a sale of tangible personal property and not mining or metallurgical activity.

(d) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(e) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.
(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.
(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.
(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.
(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Reg. 9A-460.2. Retail sales: trading stamp company transactions.

A trading stamp transaction is defined as follows: the trading stamp company issues stamps to a vendor; the vendor then provides them to its customers; and the customer then exchanges the stamps for merchandise from the trading stamp company.

The exchange transaction for the merchandise shall be deemed a retail sale and the trading stamp company a retailer. All taxes imposed by this Chapter applicable to retail transactions are therefore applicable to such exchange transactions.

The rate of tax shall be the retail rate based upon the retail dollar value of the redeemed merchandise as expressed in the redemption dollar value per book of stamps or portion thereof. The tax imposition described herein is in lieu of any

Privilege or Use Tax upon the business of issuing stamps, redeeming the same, or using or storing property redeemed.

Reg. 9A-460.3. Retail sales: membership fees of retailers.

Membership, admission, or other fees charged by limited access retailers are considered part of taxable gross income of the business activity of selling tangible personal property.

Reg. 9A-460.4. Retail sales: professional services.

(a) "Professional Services" refer to services rendered by such persons as doctors, lawyers, accountants, architects, etc. for their customers or clients where the services meet particular needs of a specific client and only apply in the factual context of the client and the final product has no retail value in itself. For example, opinion letters, workpapers, reports, etc. are not in a form which would be subject to retail sales to customers. However, transfer of items in a form which would be subject to retail sales (e.g., artwork, forms, manuals, etc.) would not be considered professional services. The issue is one of fact which must be resolved in each situation.

(b) Creative ("idea") labor and design labor that do not result in tangible personal property that will be or can be sold are deemed professional services and, if charged separately and maintained separately in the taxpayer's books and records, are not includable in gross income.

(c) "Professional services" shall be deemed to include those items of tangible personal property which are incidental to the services rendered, provided such tangible personal property is "inconsequential".

  (1) Incidental transfers of tangible personal property shall be regarded as "inconsequential" if,

    (A) the purchase price of the tangible personal property to the person rendering the professional services represents less than fifteen percent (15%) of the charge, billing, or statement rendered to the purchaser in connection with the transaction, and

    (B) the tangible personal property transferred is not itself in a form which is subject to retail sale.

  (2) In cases where the tangible personal property transferred is deemed inconsequential, the provider of the tangible personal property so transferred is deemed the ultimate consumer of such tangible personal property, and subject to all applicable taxes imposed by this Chapter upon such transfer.

(d) Examples:

  (1) The transfer of paper embodying the result or work product of the services rendered by an attorney or certified public accountant is regarded as inconsequential to the charges for professional services.

  (2) An appraisal report issued by an appraiser, reflecting such appraiser's efforts to appraise real estate, is regarded inconsequential.

(3) Use of a hair care product on a client's hair by a barber or beautician in connection with performing professional services is usually inconsequential. On the other hand, if the barber or beautician supplies the customer with a bottle of the product for the client's use thereafter and without the professional's assistance, the transfer of the bottle of hair care product is deemed not inconsequential.

(4) If a mortician properly segregates his professional services from other taxable activities on his bill (invoice, contract), his gross income would include only the income derived from the sale of tangible personal property (casket, cards, flowers, etc.) and rental, leasing, or licensing of real and tangible personal property. His charges for professional services (embalming, cosmetic work, etc.) would not be includable in gross income.

Reg. 9A-460.5. Retail sales: monetized bullion; numismatic value of coins.

(a) "Monetized Bullion" means coins or other forms of money manufactured or minted from precious metals or other metals and issued as legal tender or a medium of exchange by or for any government authorized to do so.

(b) Any coin shall be considered to have been transferred or acquired primarily for its "Numismatic value" if the sale or acquisition price:

(1) is equal to or greater than twice (2 times) the value of the metallic content of the coin as of the date of transfer or acquisition; and

(2) is equal to or greater than twice (2 times) its face value, in the case of a coin which, at the time of transfer or acquisition, was legal tender or a medium of exchange of the government issuing or authorizing its issuance.

Reg. 9A-460.6. Retail sales: consignment sales.

Sales of merchandise acquired on consignment are taxable as retail sales. In cases where the merchant is acting as an agent on behalf of another dealer, sales of the consigned merchandise are taxable to the principal, provided the merchant makes full disclosure to customers that he is acting only as an agent for the named principal. However, when the principal is not deemed to be a dealer, such sales are considered to be those of the merchant and are taxable to him.

Sec. 9A-465. Retail sales: exemptions.

Income derived from the following sources is exempt from the tax imposed by Section 14-460:

(a) sales of tangible personal property to a person regularly engaged in the business of selling such property.

(b) out-of-Town sales or out-of-State sales.

(c) charges for delivery, installation, or other direct customer services as prescribed by Regulation.
(d) charges for repair services as prescribed by Regulation, when separately charged and separately maintained in the books and records of the taxpayer.
(e) sales of warranty, maintenance, and service contracts, when separately charged and separately maintained in the books and records of the taxpayer.
(f) sales of prosthetics.
(g) sales of income-producing capital equipment.
(h) sales of rental equipment and rental supplies.
(i) sales of mining and metallurgical supplies.
(j) sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 9, Title 28, Arizona Revised Statutes; or sales of use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-1559, or sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.
(k) sales of tangible personal property to a construction contractor who holds a valid Privilege Tax License for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.
(l) sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.
(m) sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines, or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.
(n) (Reserved)
    (1) (Reserved)
    (2) (Reserved)
(o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 9A-455 or the equivalent excise tax upon such income.
(p) sales of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or sales of tangible personal property purchased in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the

United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

(q) food purchased with food stamps provided through the Food Stamp Program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 Et Seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302), but only to the extent that food stamps or food instruments were actually used to purchase such food.

(r) (Reserved)
  (1) (Reserved)
  (2) (Reserved)
  (3) (Reserved)
  (4) (Reserved)

(s) sales of groundwater measuring devices required by A.R.S. Section 45-604.

(t) (Reserved)

(u) sales of aircraft acquired for use outside the State, as prescribed by Regulation.

(v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.

(w) sales of textbooks that are required by any State university or community college by any bookstore.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

(aa) the sale of tangible personal property used in remediation contracting as defined in Section 9A-100 and Regulation 9A-100.5.

(bb) sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, State university libraries or Federal, state, county or Municipal libraries for use by the public as follows:
  (1) printed or photographic materials.
  (2) electronic or digital media materials.

(cc) sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-1310.01(A)(48), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, “accessories” means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(dd) in computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are taxable under Section 9A-470, gross proceeds of sales or gross income does not include any sale commissions or other compensation received by the retailer as a

result of the customer entering into or continuing a contract for the telecommunications services.

(ee) for the purposes of this Section, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 9A-470 is considered t be a sale for resale in the regular course of business.

(ff) sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or § 49-480.

(gg) sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(hh) sales of personal hygiene items to a person engaged in the business of and subject to tax under Section 9A-444 of this Code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.

(ii) for the purposes of this Section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

(jj) sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this Subsection, "Accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(kk) (Reserved).

(ll) sales of motor vehicles that used alternative fuel as defined in A.R.S. Section 43-1086 if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

Reg. 9A-465.1. Retail sales: repair services.

(a) Fair market value of parts and labor charges. The Tax Collector may examine the reporting of all transactions covered by this Section to determine if an "arms-length" price is charged for the parts and materials. The applicable tax may not be avoided by pricing a part, which ordinarily

sells to the customer at $10, at $5 and including the difference as “service” or “labor”. In the absence of satisfactory evidence supplied by the taxpayer as to industry or business practice, the Tax Collector may use the cost of the part or materials to the taxpayer marked up by a reasonable profit, to estimate the gross income subject to tax.

(b) Notwithstanding Regulation 9A-350.1(e),

(1) in the case where the taxpayer does not normally and regularly sell items of tangible personal property apart from a repair transaction, the taxpayer may determine the sale price of the tangible personal property transferred by means of a “computed charge.” The “computed charge” shall be the sum of the cost of the item of tangible personal property transferred, plus a “reasonable markup.” The “reasonable markup” shall be that amount needed to achieve a representative retail price for which such items of tangible personal property are normally sold at retail by comparable businesses within the State (not under circumstances involving the combination of such sale with the providing of repair services). The taxpayer shall have the initial responsibility of determining such reasonable markup, and providing to the Tax Collector, if requested, the basis for his determination.

(2) in the event that there is a disagreement between the Tax Collector and the taxpayer as to the proper determination of the “computed charges,” the burden shall be upon the taxpayer to satisfy the Tax Collector, the Hearing Officer in the event of a hearing, or the court in any subsequent court action involving an assessment, of the validity of the taxpayer's method of determination of such “computed charges.” The determination by the Tax Collector as to the proper “computed charge” shall be considered valid, and shall be sustained unless it is proven by the taxpayer that such determination is arbitrary and unreasonable.

Reg. 9A-465.2. Retail sales: warranty, maintenance, and similar service contracts.

(a) Gross income from sales of warranty, maintenance, and service contracts is exempt from the tax imposed by Section 9A-460.

(b) Transfers of tangible personal property in connection with a service, warranty, guaranty, or maintenance agreement between a vendor and a vendee shall be subject to tax under Section 9A-460 only to the extent of gross income received from separately itemized charges made for the items of property transferred.

(c) The gross income derived from a maintenance insurance agreement, which agreement is entered into between the purchaser and any person other than the seller is not subject to tax imposed by Section 9A-460. If the provider of the maintenance insurance agreement pays for tangible personal property on behalf of the insured in the performance of the agreement, such sales are subject to all applicable taxes imposed by this Chapter.

(d) Charges for tangible personal property provided under the terms of a warranty, maintenance, or service contract exempted under Section 9A-465 are subject to tax as retail sales.
(e) However, gross income received by a dealer from a manufacturer for work performed under a manufacturer's warranty is not taxable under Section 9A-460.

Reg. 9A-465.3. Retail sales: sale of containers, paper products, and labels.

(a) The sale of a container or similar packaging material which contains personal property and which is transferred to the customer with the sale of the product is not taxable as a sale for resale. Examples of such nontaxable containers include but are not limited to:
    (1) packaging materials sold to a manufacturer of video equipment for containment of the product during shipment.
    (2) cellophane-type wrap sold to a meat department or butcher for containment of the individually wrapped or contained meat.
    (3) bags used to contain loose fungible goods such as fruits, vegetables, and other products sold in bulk, where such bags or containers are used to contain and measure the amount purchased by the customer.
    (4) shopping bags and similar merchandising bags sold to grocery stores, department stores or other retailers.
    (5) gift wrappings and gift boxes sold to department stores or other retailers.
(b) Sales of non-returnable or disposable paper (and similar products such as plastic or styrofoam) cups, lids, plates, bags, napkins, straws, knives, forks and other similar food accessories to a restaurant or others taxable under Section 9A-455 for transfer by the restaurant to its customer to contain or facilitate the consumption of the food, drink or condiment are sales for resale and not taxable.
(c) Where a retailer imposes a charge for gift wrapping and the charge includes the container, paper, and other appropriate materials, the wrapping charge shall be considered a sale.
(d) Charges for returnable containers, where the charges are imposed on the customer, are subject to tax at the time of the transaction. A credit may be taken for the amount of refund after such refund is made.
(e) The sale of labels to a purchaser who affixes them to a primary container is a sale for resale and not taxable. Directional or instructional material included with products sold are considered to be part of the product and a sale for resale. However, the sale of items such as price tags, shipping tags, and advertising matter delivered to the customer in connection with the retail sale is taxable to the retailer as a retail sale to it, and is not exempt as a sale for resale.

Reg. 9A-465.4. Retail sales: aircraft acquired for use outside the State.

"Aircraft acquired for use outside the State" means aircraft, navigational and communication instruments, and other accessories and related equipment sold to:

(a) Any foreign government for use by such government outside of this State.

(b) Persons who are not residents of this State and who will not use such property in this State other than in removing such property from this State. This subsection also applies to corporations that are not incorporated in this State, regardless of maintaining a place of business in this State, if the principal corporate office is located outside this State and the property will not be used in this State other than in removing the property from this State.

Sec. 9A-470. Telecommunication services.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this Town.

  (1) Telecommunication services shall include:

    (A) two-way voice, sound, and/or video communication over a communications channel.

    (B) one-way voice, sound, and/or video transmission or relay over a communications channel.

    (C) facsimile transmissions.

    (D) providing relay or repeater service.

    (E) providing computer interface services over a communications channel.

    (F) time-sharing activities with a computer accomplished through the use of a communications channel.

  (2) Gross income from the business activity of providing telecommunication services to consumers within this Town shall include:

    (A) all fees for connection to a telecommunication system.

    (B) toll charges, charges for transmissions, and charges for other telecommunications services; provided that such charges relate to transmissions originating in the Town and terminating in this State.

    (C) fees charged for access to or subscription to or membership in a telecommunication system or network.

    (D) charges for monitoring services relating to a security or burglar alarm system located within the Town where such system transmits or receives signals or data over a communications channel.

(b) Resale telecommunication services. Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this Section; provided,

however, that such purchaser is properly licensed by the Town to engage in such business.

(c) Interstate transmissions. Charges by a provider of telecommunication services for transmissions originating in the Town and terminating outside the State are exempt from the tax imposed by this Section.

(d) (Reserved)

(e) (Reserved)

Reg. 9A-470.1. Telecommunication services.

(a) Gross income from the business activity of providing telecommunication services to consumers within this Town shall not include:
   (1) charges for installation, maintenance, and repair of telecommunication equipment which are subject to the provisions of Sections 9A-415, 9A-416, or 9A-417 (construction contracting); 9A-445 (real property rental); 9A-450 (tangible personal property rental); or 9A-460 (retail sales); depending upon the nature of the work performed.
   (2) separately billed advertising charges which are subject to the provisions of Section 9A-405 or 9A-435.

(b) Mobile equipment. In cases where the customer is being provided telecommunication services to receiving/transmission equipment designed to be mobile in nature (for example, mobile telephones, portable hand-held two-way radios, paging devices, etc.), the provider shall, for the purposes of the tax imposed by this Section, determine whether such provider's customers are “within this Town” as follows:
   (1) by the billing address of the customer, provided that such address is a permanent residence or business location of the consumer within the State.
   (2) in all other cases, the business location of the telecommunications provider.

Sec. 9A-475. Transporting for hire.

The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this Town to another point within the State:

(a) transporting of persons or property by railroad.

(b) transporting of oil or natural or artificial gas through pipe or conduit.

(c) transporting of property by aircraft.

(d) transporting of persons or property by motor vehicle, including towing and the operation of private car lines, as such are defined in Article III, Chapter 4, Title 42, Arizona Revised Statutes; provided, however, that the tax imposed by this subsection shall not apply to:
   (1) gross income subject to the tax imposed by Article VI, Chapter 9, Title 28, Arizona Revised Statutes.

(2) gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.
(3) (Reserved)
(4) (Reserved)

Reg. 9A-475.1. Distinction between transporting for hire and certain related activities.

The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is deemed rental, leasing, or licensing for use of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Sec. 9A-480. Utility services.

(a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to:
   (1) consumers or ratepayers who reside within the Town.
   (2) consumers or ratepayers of this Town, whether within the Town or without, to the extent that this Town provides such persons utility services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this Town for providing such utility services to such persons.
(b) Exclusion of certain sales of natural gas to a public utility. Notwithstanding the provisions of subsection (a) above, the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of tangible personal property subject to Sections 9A-460 and 9A-465, and not considered gross income taxable under this Section.
(c) Resale utility services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this Section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.
(d) (Reserved)
(e) The tax imposed by this Section shall not apply to sales of utility services to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in

gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(f) The tax imposed by this Section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

(g) The tax imposed by this Section shall not apply to:

(1) revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

(2) revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.

(h) The tax imposed by this Section shall not apply to sales of alternative fuel as defined in A.R.S. §1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or sued oil fuel under A.R.S. § 49-426 or § 49-480.

Sec. 9A-485. (Reserved)

Article V - Administration

Sec. 9A-500. Administration of this Chapter; rule making.

(a) The administration of this Chapter is vested in and exercised by the Town of Springerville, and except as otherwise provided, and all payments shall be made to the Town of Springerville. The Town may, pursuant to an intergovernmental agreement, contract with the State of Arizona Department of Revenue for the administration of the tax. In such cases, "Tax Collector" shall also mean the Arizona Department of Revenue, when acting as agent in administering this tax.

(b) The Tax Collector shall prescribe the forms and procedures necessary for the administration of the taxes imposed by this Chapter.

(c) Except where such Regulations would conflict with administrative regulations adopted by the Town Council or with provisions of this Chapter, all regulations on the Transaction Privilege Tax adopted by the Arizona Department of Revenue under the authority of A.R.S. Section 42-105 shall be considered Regulations of this Chapter and enforceable as such.

(d) Taxpayers shall be subject to the State taxpayer bill of rights (A.R.S. § 42-139 et. seq.).

(e) The unified audit committee shall publish uniform guidelines that interpret the Model City Tax Code and that apply to all cities and towns that have adopted the Model City Tax Code as provided by A.R.S. Section 42-6005.

(1) Prior to finalization of uniform guidelines that interpret the Model City Tax Code, the unified audit committee shall disseminate draft guidelines for public comment.

(2) Pursuant to A.R.S. Section 42-6005(D), when the state statutes and the Model City Tax Code are the same and where the Arizona Department of Revenue has issued written guidance, the department's interpretation is binding on cities and towns.

Sec. 9A-510. Divulging of information prohibited; exceptions allowing disclosure.

(a) Except as specifically provided, it shall be unlawful for any official or employee of the Town to make known information obtained pursuant to this Chapter concerning the business financial affairs or operations of any person.

(b) The Town Council may authorize an examination of any return or audit of a specific taxpayer made pursuant to this Chapter by authorized agents of the Federal Government, the State of Arizona, or any political subdivisions.

(c) The Tax Collector may provide to an Arizona county, city, or town any information concerning any taxes imposed in this Chapter relative to the taxing ordinances of that county, city, or town.

(d) Successors, receivers, trustees, personal representatives, executors, guardians, administrators, and assignees, if directly interested, may be

given information by the Tax Collector as to the items included in the measure and amounts of any unpaid tax, interest, and penalties required to be paid.

(e) Upon a written direction by the Town Attorney or other legal advisor to the Town designated by the Town Council, officials or employees of the Town may divulge the amount and source of income, profits, leases, or expenditures disclosed in any return or report, and the amount of such delinquent and unpaid tax, penalty, or interest, to a private collection agency having a written collection agreement with the Town.

(f) The Tax Collector may provide information to appropriate representatives of any Arizona city or town to comply with the provisions of A.R.S. Section 42-1452 relating to the assessment and collection of intermunicipal taxes.

(g) The Tax Collector may provide information to authorized agents of any other Arizona governmental agency involving the allocation of taxes imposed by Section 9A-435 upon publishing and distribution of periodicals.

(h) The Tax Collector may provide information regarding the enforcement and collection of taxes imposed by this Chapter to any governmental agency with which the Town has an agreement.

Sec. 9A-515. (Reserved)

Sec. 9A-516. (Reserved)

Sec. 9A-517. (Reserved)

Sec. 9A-520. Reporting and payment of tax.

(a) The taxpayer shall be required to use the report form authorized by the Tax Collector and shall mail or deliver the same, together with remittance for the amount of tax due, payable to the Town of Springerville, to the Tax Collector or any Town representative or agent authorized to receive such payment. The tax return shall be signed by the taxpayer or his authorized agent, and such signature shall be evidence that the person signing the return verifies the accuracy of the information supplied in the return.

(b) Payment. If payment is made in any form other than United States legal tender, the tax obligation shall not be satisfied until the payment has been honored in funds.

(c) Requirement of Security. If a taxpayer has remitted payment in the form of a check or other form of draw upon a bank or third party and such remittance has not been honored in funds, the Tax Collector may demand security for future payments.

(d) Method of Reporting. Each taxpayer shall elect to report on either a cash receipts basis or an accrual basis and shall indicate the choice on the Privilege License application. A taxpayer shall not change his reporting method without receiving prior written approval by the Tax Collector.

(1) Taxpayers must report all gross income subject to the tax using the same basis of reporting.
(2) Taxes imposed upon construction contracting shall be reported as follows:
    (A) Construction contractors shall report on either a progressive billing ("accrual") basis or cash receipts basis.
    (B) Speculative builders shall report the gross income derived from sale of improved real property at close of escrow or at transfer of title or possession, whichever occurs earlier.
    (C) Owner-builders who are not speculative builders shall report taxable amounts as provided in Section 9A-417.

Reg. 9A-520.1. (Reserved)

Reg. 9A-520.2. Change of method of reporting.

(a) Any taxpayer electing to change his reporting method shall be permitted to do so only upon filing a written request to the Tax Collector and after receiving written approval of the Tax Collector. The approval shall state the effective date of the change.
(b) The Tax Collector may postpone such approval to allow for examination of the records of the taxpayer and may further require that all tax liability be satisfied up to the effective date of the change.
(c) Failure of the taxpayer to notify the Tax Collector and await approval before changing the method of reporting will subject the taxpayer to interest and penalties if his original method of reporting would produce higher taxes due the Town. When a person makes such change without the consent of the Tax Collector, the Tax Collector may audit his books and records to verify the tax liability as of the date of the change.
(d) Any taxpayer who has failed to indicate a choice of reporting method upon the application for a Privilege License shall be deemed to have chosen the accrual method of reporting.

Sec. 9A-530. When tax due; when delinquent; verification of return; extensions.

(a) Except as otherwise specified in this Section, the taxes levied under this Chapter shall be due, payable, and delinquent on the dates specified for the State Transaction Privilege Taxes in A.R.S. Section 42-1322. The taxpayer shall report on the taxes imposed by this Chapter at such frequency to be identical to the taxpayer's reporting frequency for the reporting of State Transaction Privilege Taxes.
(b) (Reserved)
(c) (Reserved)
(d) (Reserved)

(e) The Tax Collector may for good cause extend the date for making any return required under the provisions of this Section as prescribed by A.R.S. Section 42-116.

Sec. 9A-540. Interest and civil penalties.

Any taxpayer who shall have failed to timely pay any taxes imposed by this Chapter, or file a report for the same in a timely manner, or fail or refuse to allow examination of records by the Tax Collector, shall be subject to any interest or civil penalties on such tax in like manner as such interest and penalties are provided in A.R.S. Sections 42-134 and 42-136 for the State Transaction Privilege Tax.

(a) (Reserved)
(b) (Reserved)
(c) (Reserved)
(d) (Reserved)
(e) (Reserved)
(f) (Reserved)
(g) (Reserved)
(h) (Reserved)
(i) (Reserved)

Sec. 9A-541. (Reserved)

Sec. 9A-542. Prospective application of new law or interpretation or application of law.

(a) Unless expressly authorized by law, the Tax Collector shall not apply any newly enacted legislation retroactively or in a manner that will penalize a taxpayer for complying with prior law.
(b) If the Tax Collector adopts a new interpretation or application of any provision of this chapter or determines that any provision applies to a new or additional category or type of business and the change in interpretation or application is not due to a change in the law:
    (1) the change in interpretation or application applies prospectively only unless it is favorable to taxpayers.
    (2) the Tax Collector shall not assess any tax, penalty or interest retroactively based on the change in interpretation or application.
(c) For purposes of subsection (b), “new interpretation or application” includes policies and procedures which differ from established interpretations of this chapter.
(d) Tax liabilities, penalties and interest paid before a new interpretation or application of a provision of this chapter shall not be refunded unless the taxpayer requesting the refund provides evidence satisfactory to the Tax Collector that all such amounts will be refunded to the person who paid an added charge to cover the tax.

Sec. 9A-545. Deficiencies; when inaccurate return is filed; when no return is filed; estimates.

(a) If a taxpayer has failed to file a return or if the Tax Collector is not satisfied with the return or payment of tax required, the Tax Collector may redetermine the tax due, plus penalties and interest, and notify the taxpayer, as provided and prescribed by A.R.S. Sections 42-117 and 42-118.
  (1) (Reserved)
  (2) (Reserved)
(b) Estimates by the Tax Collector. Any estimate made by the Tax Collector is to be made on a reasonable basis. The existence of another reasonable basis of estimation does not, in any way, invalidate the Tax Collector's estimate. It is the responsibility of the taxpayer to prove that the Tax Collector's estimate is not reasonable and correct, by providing sufficient documentation of the type and form required by this Chapter or satisfactory to the Tax Collector.

Sec. 9A-546. (Reserved)

Sec. 9A-550. Limitation periods.

(a) Except as provided elsewhere in this Chapter, deficiency assessments for the taxes imposed by this Chapter must be issued within the limitation periods prescribed in A.R.S. Section 42-113, and must meet the provisions of A.R.S. Section 42-117.
(b) (Reserved)
(c) In cases of failure to file a return or a false or fraudulent return, the limitation period shall be as prescribed in A.R.S. Section 42-118.
(d) Special provisions relating to owner-builders. The limitation for an owner-builder subject to the tax as prescribed in Section 9A-417 shall be based upon the date such tax liability is reportable or was reported, as provided in Section 9A-417.

Sec. 9A-555. Tax Collector may examine books and other records; failure to provide records.

(a) The Tax Collector may require the taxpayer to provide and may examine any books, records, or other documents of any person who, in the opinion of the Tax Collector, might be liable for any tax under this Chapter, for any periods available to him under Section 9A-550.
(b) (Reserved)
(c) (Reserved)
(d) The Tax Collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any

taxpayer. The Tax Collector shall ensure that the procedures used are in accordance with generally accepted auditing standards.

(e) The fact that the taxpayer has not maintained or provided such books and records which the Tax Collector considers necessary to determine the tax liability of any person does not preclude the Tax Collector from making any assessment. In such cases, the Tax Collector is authorized to use estimates, projections, or samplings, to determine the correct tax. The provisions of Section 9-545(b), concerning estimates, shall apply.

(f) (Reserved)

Reg. 9A-555.1. (Reserved)

Sec. 9A-556. (Reserved)

Sec. 9A-560. Erroneous payment of tax; credits and refunds; limitations.

(a) Except as provided in Section 9A-565, the period within which a claim for credit may be filed, or refund allowed or made if no claim is filed, shall be as provided in A.R.S. Sections 42-115 and 42-129.

(b) (Reserved)

(c) (Reserved)

(d) Interest shall be allowed at the rate set forth in Section 9A-540(a) on any credit or refund authorized pursuant to the provisions of this Chapter. Interest shall be calculated from the time of the claim made to the Town by the taxpayer.

(e) (Reserved)

(f) The denial of a refund by the Tax Collector is subject to the provisions of A.R.S. Section 42-130.

(g) Any refund paid under the provisions of this Section shall be paid from the Privilege Tax revenue accounts.

Sec. 9A-565. Payment of tax by the incorrect taxpayer or to the incorrect Arizona city or town.

(a) When it is determined that taxes have been reported and paid to the Town by the wrong taxpayer, any taxes erroneously paid shall be transferred by the Town to the privilege tax account of the person who actually owes and should have paid such taxes, provided that the Town receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax.

(b) An assignment and waiver provided under this Section, must:

  (1) identify the name and Town privilege license number of the person who erroneously paid the tax and the person who should have paid the tax.

  (2) provide that the person who erroneously paid the tax waives any right such person may have to a refund of the taxes erroneously paid.

(3) authorize the Town Treasurer to transfer the erroneously paid tax to the privilege tax account of the person who should have paid the tax.

(c) When it is determined that taxes have been reported and paid to the wrong Arizona city or town, such taxes shall be remitted to the correct city or town, provided that the city or town to whom the taxes were erroneously paid receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax. Where the person who actually paid the tax and the person who should have paid the tax are one and the same, no assignment and waiver need be provided. The Town shall neither pay nor charge any interest or penalty on any overpayment or underpayment except such interest and penalty actually paid by the taxpayer relating to such tax.

(d) This Section in no way limits or restricts the applicability of any remedies which may otherwise be available under A.R.S. Section 42-1452. The limitations and procedures set forth in A.R.S. Section 42-1452 shall apply to all payments under this Section.

(e) When reference is made in this Section to this Town or an Arizona city or town, and payments made to or requested from this Town or an Arizona city or town, the provisions shall be applicable to the Arizona Department of Revenue when it is acting for or on behalf of this Town or an Arizona city or town.

Sec. 9A-567. (Reserved)

Sec. 9A-570. Administrative review; petition for hearing or for redetermination; finality of order.

(a) Closing agreements between the Tax Collector and a taxpayer have no force of law unless made in accordance with the provisions of A.R.S. Section 42-126.

(b) Administrative review.

(1) Petitions of appeal shall be made to, and hearings shall be conducted by, the Arizona Department of Revenue, in accordance with the provisions of A.R.S. Section 42-122, as modified by Section 9A-571.

(2) (Reserved)

(3) (Reserved)

(4) (Reserved)

(5) Hearings shall be held by the Arizona Department of Revenue in accordance with the provisions of A.R.S. Section 42-122. The Department's decision may be appealed to the State Board of Tax Appeals, in accordance with the provisions of A.R.S. Section 42-124.

(6) (Reserved)

(7) (Reserved)

(8) (Reserved)

(c) (Reserved)

(d) (Reserved)

(e) Taxpayers shall be subject to the State taxpayer bill of rights (A.R.S. § 42-139 et. seq.).

Sec. 9A-571. Jeopardy assessments.

(a) If the Tax Collector believes that collection of any amounts imposed by this Chapter will be jeopardized by delay, he shall issue notice to the taxpayer in accordance with the provisions of A.R.S. Section 42-120.
(b) In cases where such jeopardy notice has been issued, the taxpayer must meet the provisions of A.R.S. Section 42-120, concerning appeals of jeopardy assessments, before any request for administrative review shall be honored. Any bond or collateral that may be required shall meet the provisions of A.R.S. Section 42-112.
(c) (Reserved)
(d) (Reserved)
(e) (Reserved)

Reg. 9A-571.1. Collection of tax in jeopardy.

Evidence that collection of tax due is in jeopardy shall include documentation that:
(a) the taxpayer is going out of business.
(b) the taxpayer has no Town Privilege License or has no permanent business location in the State.
(c) the taxpayer has failed to timely pay any tax (or penalties and interest thereon) due to the Town on three (3) or more occasions within the previous thirty-six (36) calendar months.
(d) the taxpayer has remitted payment by check, which has been dishonored.
(e) the taxpayer has failed to comply with a formal written request of the Tax Collector made pursuant to Regulation 9A-555.1.

Sec. 9A-572. (Reserved)

Sec. 9A-575. Judicial review.

(a) Appeal of a State Board of Tax Appeals decision to the courts is valid only if all the provisions of A.R.S. Section 42-124 are met.
(b) (Reserved)
(c) (Reserved)
(d) (Reserved)
(e) The town has the burden of proof by a preponderance of the evidence in any court proceeding regarding any factual issue relevant to ascertaining the tax liability of a taxpayer. This Subsection does not abrogate any requirement of this Chapter that requires a taxpayer to substantiate an item of gross income, exclusion, exemption, deduction, or credit. This

Subsection applies to a factual issue if a preponderance of the evidence demonstrates that:

(1) The taxpayer asserts a reasonable dispute regarding the issue.

(2) The taxpayer has fully cooperated with the Tax Collector regarding the issue, including providing within a reasonable period of time, access to and inspection of all witnesses, information and documents within the taxpayer's control, as reasonably requested by the Tax Collector.

(3) The taxpayer has kept and maintained records as required by the Town.

(f) The issuance of an adjusted or corrected assessment or notice of refund due to the taxpayer, where made by the Tax Collector pursuant to the decision of the Hearing Officer, shall not be deemed an acquiescence by the Town or the Tax Collector in said decision, nor shall it constitute a bar or estoppel to the institution of an action or counterclaim by the Town to recover any amounts claimed to be due to it by virtue of the original assessment.

(g) After the initiation of any action in the appropriate court by either party, the opposite party may file such counterclaim as would be allowed pursuant to the Arizona Rules of Civil Procedure.

Sec. 9A-577. (Reserved)

Sec. 9A-578. (Reserved)

Sec. 9A-580. Criminal penalties.

(a) It is unlawful for any person to knowingly or willfully:

(1) fail or refuse to make any return required by this Chapter.

(2) fail to remit as and when due the full amount of any tax or additional tax or penalty and interest thereon.

(3) make or cause to be made a false or fraudulent return.

(4) make or cause to be made a false or fraudulent statement in a return, in written support of a return, or to demonstrate or support entitlement to a deduction, exclusion, or credit or to entitle the person to an allocation or apportionment or receipts subject to tax.

(5) fail or refuse to permit any lawful examination of any book, account, record, or other memorandum by the Tax Collector.

(6) fail or refuse to remit any tax collected by such person from his customer to the Tax Collector before the delinquency date next following such collection.

(7) advertise or hold out to the public in any manner, directly or indirectly, that any tax imposed by this Chapter, as provided in this Chapter, is not considered as an element in the price to the consumer.

(8) fail or refuse to obtain a Privilege License or to aid or abet another in any attempt to intentionally refuse to obtain such a license or evade the license fee.

(9) reproduce, forge, falsify, fraudulently obtain or secure, or aid or abet another in any attempt to reproduce, forge, falsify, or fraudulently obtain or secure, an exemption from taxes imposed by this Chapter.

(b) The violation of any provision of subsection (a) above shall constitute a Class Two Misdemeanor.

(c) In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury and on conviction thereof shall be punished in the manner provided by law.

Sec. 9A-590. Civil actions.

(a) Liens.

(1) Any tax, penalty, or interest imposed under this Chapter which has become final, as provided in this Chapter, shall become a lien when the Town perfects a notice and claim of lien setting forth the name of the taxpayer, the amount of the tax, penalty, and interest, the period or periods for which the same is due, and the date of accrual thereof, the amount of the recording costs by the county recorder in any county in which the taxpayer owns real property and the documentation and lien processing fees imposed by the Town council and further, stating that the Town claims a lien therefore.

(2) The notice of claim of lien shall be signed by the Tax Collector under his official seal or the official seal of the Town, and, with respect to real property, shall be recorded in the office of the County Recorder of any county in which the taxpayer owns real property, and, with respect to personal property shall be filed in the office of the Secretary of State. After the notice and claim of lien is recorded or filed, the taxes, penalties, interest and recording costs and lien processing fees referred to above in the amounts specified therein shall be a lien on all real property of the taxpayer located in such county where recorded, and all tangible personal property of the taxpayer within the State, superior to all other liens and assessments recorded or filed subsequent to the recording or filing of the notice and claim of lien.

(3) Every tax and any increases, interest, penalties, and recording costs and lien processing fees referred to above, shall become from the time the same is due and payable a personal debt from the person liable to the Town, but shall be payable to and recoverable by the Tax Collector and which may be collected in the manner set forth in subsection (b) below.

(4) Any lien perfected pursuant to this Section shall, upon payment of the taxes, penalties, interest, recording costs and lien processing fees referred to above and lien release fees imposed by the county recorder in any county in which the lien was recorded, thereby, be released by the Tax Collector in the same manner as mortgages and judgments are released. The Tax Collector may, at his sole discretion, release a

lien in part, that is, against only specified property, for partial payment of moneys due the Town.

(b) Actions to recover tax. The Arizona Department of Revenue, or any agent or representative authorized by that Department, may bring action, in the name of the Town, to recover taxes as provided in A.R.S. Section 42-125.

Sec. 9A-595. Collection of taxes when there is succession in and/or cessation of business.

(a) In addition to any remedy provided elsewhere in this Town Code that may apply, the Tax Collector may apply the provisions of subsections (b) through (d) below concerning the collection of taxes when there is succession in and/or cessation of business.

(b) The taxes imposed by this Chapter are a lien on the property of any person subject to this Chapter who sells his business or stock of goods, or quits his business, if the person fails to make a final return and payment of the tax within fifteen (15) days after selling or quitting his business.

(c) Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the Privilege Tax imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner builder, as provided in Sections 9A-416 and 9A-417.

(d) A person's successors or assignees shall withhold from the purchase money an amount sufficient to cover the taxes required to be paid, and interest or penalties due and payable, until the former owner produces a receipt from the Tax Collector showing that all Town tax has been paid or a certificate stating that no amount is due as then shown by the records of the Tax Collector. The Tax Collector shall respond to a request from the seller for a certificate within fifteen (15) days by either providing the certificate or a written notice stating why the certificate cannot be issued.

    (1) If a subsequent audit shows a deficiency arising before the sale of the business, the deficiency is an obligation of the seller and does not constitute a liability against a buyer who has received a certificate from the Tax Collector.

    (2) If the purchaser of a business or stock of goods fails to obtain a certificate as provided by this Section, he is personally liable for payment of the amount of taxes required to be paid by the former owner on account of the business so purchased, with interest and penalties accrued by the former owner or assignees.

Sec. 9A-596. (Reserved)

Sec. 9A-597. (Reserved)

Article VI - (Reserved)

Sec. 9A-600. (Reserved)

Sec. 9A-601. (Reserved)

Sec. 9A-602. (Reserved)

Sec. 9A-610. (Reserved)

Sec. 9A-620. (Reserved)

Sec. 9A-630. (Reserved)

Sec. 9A-640. (Reserved)

Sec. 9A.650. (Reserved)

Sec. 9A-660. (Reserved)

STATUTORY REFERENCES
FOR
ARIZONA CITIES AND TOWNS

The statutory references direct the code user to those portions of the state statutes that are applicable to the laws of the municipality. This reference list is up-to-date through July, 1998. As the statutes are revised, these references will be updated by Book Publishing Company.

General Provisions

Penalties	ARS § 9-240(28)(b)
Adoption of codes	ARS §§ 9-801—9-804
Elections	ARS §§ 9-821—9-825
General powers	ARS §§ 9-240, 9-276

Administration and Personnel

Mayor and council	ARS §§ 9-231—9-240
Ordinances	ARS §§ 9-811—9-813
City or town manager	ARS § 9-303
City or town clerk	AS § 9-222
Civil defense	ARS § 26-308
Municipal courts	ARS Title 22 Ch. 4
Police force	ARS § 9-901 et seq. and § 9-240(12)
Public library	ARS §§ 9-411—9-420

Revenue and Finance

Claims against city or town	ARS §§ 9-247—9-250
Municipal improvement districts	ARS § 48-501 et seq.
Taxing power	ARS §§ 9-220 and 9-240(26)
Special assessments	ARS § 9-276(23)

Business Licenses and Regulation

Business license tax	ARS § 9-240(18)—(19)
Prohibition of certain businesses	ARS § 9-276(18)
Alcoholic beverages	ARS §§ 4-223 and 4-224.

Animals

Animal regulation	ARS § 9-240(16)

Health and Safety

Health regulations	ARS §§ 9-240(20)—(22) and 36-167
Local boards of health	ARS §§ 36-165 et seq. and 9-276(17)
Nuisances	ARS §§ 9-240(21)(a), 9-276(16) and 9-499
Fire prevention	ARS § 9-240(7)
Litter and weed removal	ARS § 9-499
Food sales	AS § 9-276(11)

Public Peace, Morals and Welfare

Nuisances	ARS § 9-240(21)(a), 9-276(16) and 9-499
Police powers	ARS §§ 9-240(12)—9-240(15), 9-240(17), 9-240(24), 9-240(28)
Prostitution	ARS § 9-240(17)

Vehicles and Traffic

State traffic code	ARS Title 28
Local traffic regulations	ARS §§ 28-626—28-627
Rules of the road	ARS §§ 28-601 et seq.

Civil traffic violations	ARS §§ 28-626(B), 28-1071—28-1080
Abandoned vehicles	ARS § 28-4801 et seq.
Streets and Sidewalks	
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Adoption of codes	ARS § 9-801 et seq.
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ORDINANCE LIST AND DISPOSITION TABLE

Ord. No.	Description
39A	Code adoption (Not codified)
40	Subdivisions (Repealed by 123)
40A	Subdivisions (Repealed by 123)
40B	Adds Ch. 15, subdivisions (Repealed by 123)
40C	Adds Ch. 15, subdivisions (16.04, 16.08, 16.12)
41A	7/9/73 Annexation (Special)
41A	8/13/73 Amends prior code §§ 13-5-2, 13-6-5 and 13-7-1, water and sewer fees (13.08, 13.12, 13.16)
42	Amends prior code §§ 13-5-1, 13-5-2, 13-6-5 and 13-7-1, water and sewer fees (13.08, 13.12, 13.16)
43	Adopts Uniform Building Code (Repealed by 123)
44	Annexation (Special)
45	Annexation (Special)
46	Amends prior code §§ 9-2-1 and 9-2-3, transaction privilege tax (Repealed by 123)
47	Excavation permits (12.04)
48	Operation of motor vehicles on private property (10.08)
49	Amends Ord. 32-A § 8(a), transaction privilege taxes (Repealed by 123)
50	Sprinkler systems (15.16)
51	Annexation (Special)
52	Annexation (Special)
53	Annexation (Special)
54	Annexation (Special)
54-1	Annexation (Special)
54-2	Annexation (Special)
54-3	Amends Ord. 13 § 2, minimum water rate charges (Repealed by 123)
54-4	Amends Ord. 13 § 2(A) and Ord. 54-3 § 2(3)(c), minimum water rate charges (Repealed by 123)
55	Annexation (Special)
55-1	Amends Ord. 5 §§ 1 and 3, sewer lines (Repealed by 123)
56	Annexation (Special)
57	Zoning (Repealed by 123)
58	Annexation (Special)
59	Establishes airport tie-down fees (Repealed by 123)
60	Rights-of-way dedications (Special)
61	Adopts home rule expenditure limitation for FY 1982-83 budget (Special)
62	Flood damage prevention (15.24)
62-A	Adds § 5.4-4 to Ord. 62, flood damage prevention (15.24)
63	Annexation (Special)

64	(Did not pass)
65	Park use (12.08)
66	Amends Ord. 60, rights-of-way dedications (Special)
66	(6/19/84) Town manager (2.12)
67	Annexation (Special)
68	Amends § 403(C)(1) and deletes §§ 402(3) and 403(G)(1) of zoning ordinance (Repealed by 123)
69	Adds prior code § 11-2-1, junked motor vehicles (8.12)
70	Gives retroactive effect to Resos. 308, 318, 331 and 358 and council motion of 6/21/85, expenditure limits (Special)
70-A	Rezone (Special)
71	Repeals and replaces prior code § 5-2-1, town magistrate (2.36)
72	Adopts Arizona State Fire Code (15.12)
73	Adds § 10 to Ord. 65, park use (12.08)
74	Annexation (Special)
75	Emergency services (2.52)
76	Annexation (Special)
77	Amends Ord. 15 §§ 1 and 2 and prior code §§ 7-2-8, 7-3-5, 8-2, 9-1-6 and 14-1(B) and (D), various fees (2.40, 5.12, 6.12, 12.16)
78	Adopts zoning code (17.04, 17.08, 17.12, 17.16, 17.20, 17.24, 17.28, 17.32, 17.36, 17.40, 17.44, 17.48, 17.52, 17.56)
79	(Not adopted)
80	Adds prior code Art. 9-3, lodging tax (Repealed by 111)
81	(Not adopted)
82	Rezone (Special)
83	Annexation (Special)
84	Adopts town tax code and repeals prior code Art. 9-2 (Appendix)
85	Annexation (Special)
86	Cable television systems (5.08)
87	Franchise grant to Star Cablevision Group (Special)
88	Fair housing (9.24)
89	Adopts 1988 amendments to the town tax code (Appendix)
90	Authorizes town manager to acquire real property to establish park (Special)
91	Adds prior code §§ 9A-460(d) and 9A-610(e); amends prior code §§ 9A-405, 9A-410, 9A-415, 9A-416, 9A-417, 9A-425, 9A-430, 9A-435, 9A-445, 9A-450, 9A-455, 9A-460, 9A-470, 9A-475, 9A-480 and 9A-610, tax code (Appendix)
92	Amends Ord. 91 effective date (Appendix)
93	Adds prior code § 13-7-7 and amends § 15-3-4(A)(3), water and sewers (13.16, 16.12)
94	Adds prior code § 13-5-9, water and sewers (13.08)
95	Franchise grant to G.H. Cable Arizona (Special)
96	Amends prior code §§ 9A-405, 9A-410, 9A-415, 9A-416, 9A-417, 9A-425, 9A-430, 9A-435, 9A-445, 9A-450, 9A-455, 9A-460, 9A-470, 9A-475, 9A-480 and 9A-610, tax code (Appendix)

97	Adopts 1990 amendments to town tax code (Appendix)
98	Adds prior code § 11-1-53, curfew (Repealed by 123)
99	(Failed)
100	Amends prior code §§ 7.02.08, 7.02.09 and 7.02.12, animal control (6.04)
101	Amends § 103(A)(3) of employee manual (Not codified)
102	(Number not used)
103	Speed limits (10.08)
104	Rezone (Special)
105	Exercising power of initiative and referendum (1.12)
105-A	Common council meetings (2.04)
106	Mobile home and manufactured housing construction standards (15.20)
107	Amends prior code § 9A-445, tax code (Appendix)
108	Franchise transfer from G.H. Cable Arizona to Mark Twain Cablevision (Special)
109	4/5/95 Adopts 1995 amendments to town tax code (Appendix)
109	10/18/95 Repeals and replaces § 13-7-6, water and sewers (13.16)
110	Election of mayor (2.08)
111	Repeals and replaces prior code § 9A-447 and repeals Ord. 80, tax code (Appendix)
112	Adopts 1996 amendments to town tax code (Appendix)
113	(Number not used)
114	Repeals and replaces prior code § 11-1-53, curfew (9.20)
115	Adopts Uniform Building Code (15.04)
116	Adopts Arizonans with Disabilities Act (15.04)
117	Business licenses; repeals prior code §§ 9-2-1—9-2-7 (5.04)
118	Rezone (Special)
119	Adds prior code Art. 12-4, vehicle weight restrictions (10.16)
120	Franchise grant to Citizens Utilities Company (Special)
121	Right-of-entry for inspection (1.16)
122	General penalty (1.20)
123	Repeals Ords. 32A and amendments to 32A dated 1-11-65, 35, 40, 40A, 40B, 43, 46, 49, 54-3, 54-4, 55-1, 57, 59, 68 and 98; repeals prior code §§ 1-8, 2-2-1, 2-2-4(F), (F)(1) and (F)(2), 2-2-7, 2-4-1, 3-2-2(F), (G) and (I), 3-2-6, 7-2-9, 8-1-3(B)—(E), 8-1-4, 8-1-5, 11-1-2, 11-1-11—11-1-14, 11-1-20, 11-1-22—11-1-24, 11-1-26, 11-1-29, 11-1-33, 11-1-34, 11-1-40, 11-1-50, 11-1-52(C) and (F) and 12-2-11 (2.08, 9.28, 15.08)
124	Amends Ord. 105(5)(A) and (C); amends prior code §§ 2-1-1, 2-1-5, 2-4-3, 2-4-6(A), 3-1-1, 3-2-1(E), 3-2-3, 4-2, 4-2-5, 4-2-9, 5-2-2(F), 11-1-21(A) and (C);reletters 3-2-2(H), (J) and (K) to (F), (G) and (H); repeals and replaces prior code Ch. 6, emergency management and disaster preparedness (1.12, 2.04, 2.12, 2.16, 2.20, 2.32, 2.36, 2.44, 2.48, 9.08, 9.12)

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