MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING
NOTICE AND AGENDA
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, December 15, 2015, at or after 7:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
Carol McGorray, Council Member
Roxanne Ziegler, Council Member

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Marana Town Council and to the general public that the Town Council will hold a meeting open to the public on December 15, 2015, at or after 7:00 PM located in the Council Chambers of the Marana Municipal Complex, 11555 W. Civic Center Drive, Marana, Arizona.

ACTION MAY BE TAKEN BY THE COUNCIL ON ANY ITEM LISTED ON THIS AGENDA. Revisions to the agenda can occur up to 24 hours prior to the meeting. Revised agenda items appear in *italics*.

As a courtesy to others, please turn off or put in silent mode all pagers and cell phones.

Meeting Times
Welcome to this Marana Town Council meeting. Regular Council meetings are usually held the first and third Tuesday of each month at 7:00 PM at the Marana Municipal Complex, although the date or time may change and additional meetings may be called at other times and/or places. Contact the Town Clerk or watch for posted agendas for other meetings. This agenda may be revised up to 24 hours prior to the meeting. In such a case a new agenda will be posted in place of this agenda.

Speaking at Meetings
If you are interested in speaking to the Council during the Call to the Public or Public Hearings, you must fill out a speaker card (located in the lobby outside the Council Chambers) and deliver it to the Town Clerk prior to the convening of the meeting.

All persons attending the Council meeting, whether speaking to the Council or not, are expected to observe the Council rules, as well as the rules of politeness, propriety, decorum and good conduct. Any person interfering with the meeting in any way, or acting rudely or loudly will be removed from the meeting and will not be allowed to return.

Accessibility

To better serve the citizens of Marana and others attending our meetings, the Council Chambers are wheelchair and handicapped accessible. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Town Clerk at (520) 382-1999. Requests should be made as early as possible to arrange the accommodation.

Agendas

Copies of the agenda are available the day of the meeting in the lobby outside the Council Chambers or online at www.marana.com, by linking to the Town Clerk page under Agendas, Minutes and Recent Actions. For questions about the Council meetings, special services or procedures, please contact the Town Clerk, at 382-1999, Monday through Friday from 8:00 AM to 5:00 PM.

This Notice and Agenda Posted no later than 24 hours prior to the meeting, at the Marana Municipal Complex, 11555 W. Civic Center Drive, the Marana Operations Center, 5100 W. Ina Road, and at www.maranaaz.gov on the Town Clerk page under Agendas, Minutes and Recent Actions.

REGULAR COUNCIL MEETING

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE/INVOCATION/MOMENT OF SILENCE

APPROVAL OF AGENDA

CALL TO THE PUBLIC

At this time any member of the public is allowed to address the Town Council on any issue within the jurisdiction of the Town Council, except for items scheduled for a Public Hearing at this meeting. The speaker may have up to three minutes to speak. Any persons wishing to address the Council must complete a speaker card located outside the Council Chambers and deliver it to the Town Clerk prior to the commencement of the meeting. Individuals addressing a meeting at the Call to the Public will not be provided with electronic technology capabilities beyond the existing voice amplification and recording capabilities in the facilities and the Town's overhead projector/document reader. Pursuant to the Arizona Open Meeting Law, at the conclusion of Call to the Public, individual members of the Council may respond to criticism made by those who have addressed the Council, and may ask staff to review the matter, or may ask that the matter be placed on a future agenda.

PROCLAMATIONS

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

PRESENTATIONS

P1 Relating to the Marana Regional Airport: Presentation by the Marana Aviation Foundation regarding its mission and planned activities that enhance the visibility of the Marana Regional Airport (Steve Miller)

CONSENT AGENDA

The Consent Agenda contains items requiring action by the Council which are generally routine items not requiring Council discussion. A single motion and affirmative vote will approve all items on the Consent Agenda, including any resolutions or ordinances. Prior to a motion to approve the Consent Agenda, any Council member may remove any item from the Consent Agenda and that item will be discussed and voted upon separately.

C1 Resolution No. 2015-132: Relating to the Police Department; approving and authorizing the Chief of Police to execute a Data Access/Exchange Agreement between the Town of Marana and the Arizona Department of Transportation Motor Vehicle Division regarding access to the Accident Location Information and Surveillance System (ALISS) database and the Safety Data Mart (Libby Shelton)

C2 Approval of December 1, 2015 Regular Council Meeting Minutes (Jocelyn C. Bronson)

LIQUOR LICENSES

BOARDS, COMMISSIONS AND COMMITTEES

B1 Relating to Boards, Commissions and Committees; selecting three potential topics for the Winter 2016 Marana Citizens' Forum (Jocelyn C. Bronson)

COUNCIL ACTION

A1 Resolution No. 2015-133: Relating to Public Works; withdrawing the Town of Marana as a co-sponsor of the Tres Rios del Norte feasibility study (Jennifer Christelman)

A2 **PUBLIC HEARING:** Ordinance No. 2015.021**:** Relating to Development; adopting comprehensive revisions to and reformatting and consolidation of Marana Land Development Code Title 1 (Title, Intent, and Purpose); Title 2 (Administration); Title 3 (Definitions); Title 4 (Planning); Section 05.04 (Nonconforming Structures and Land Uses) and all of Section 05.05 (Relationships to Streets, Other Structures, and Other Property) except Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C); Title 6 (Subdivisions); Title 7 (Large Scale Developments); all of Title 8 (General Development Regulations) except Section 08.06 (Residential Design) and Section 08.07 (Commercial Design Standards); Title 9 (Administration and Enforcement); Title 10 (Procedures); Title 11 (Prohibition of Illegal and Nuisance Uses); Title 12 (Conflict of Interest); Title 13 (Penalty); Title 14 (Severability); Title 15 (Repeal of Other Ordinances and Effective Date); Title 21 (Flood Plain and Erosion Hazard Management Code); and Title 25 (Stormwater Management) into Title 17 (Land Development) of the Marana Town Code (Frank Cassidy)

Resolution No. 2015-134: Relating to Development; declaring as a public record filed with the Town Clerk the amendments adopted by Ordinance No. 2015.021, comprehensive revisions to and reformatting and consolidation of Marana Land Development Code Title 1 (Title, Intent, and Purpose); Title 2 (Administration); Title 3 (Definitions); Title 4 (Planning); Section 05.04 (Nonconforming Structures and Land Uses) and all of Section 05.05 (Relationships to Streets, Other Structures, and Other Property) except Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C); Title 6 (Subdivisions); Title 7 (Large Scale Developments); all of Title 8 (General Development Regulations) except Section 08.06 (Residential Design) and Section 08.07 (Commercial Design Standards); Title 9 (Administration and Enforcement); Title 10 (Procedures); Title 11 (Prohibition of Illegal and Nuisance Uses); Title 12 (Conflict of Interest); Title 13 (Penalty); Title 14 (Severability); Title 15 (Repeal of Other Ordinances and Effective Date); Title 21 (Flood Plain and Erosion Hazard Management Code); and Title 25 (Stormwater Management) into Title 17 (Land Development) of the Marana Town Code (Frank Cassidy)

ITEMS FOR DISCUSSION/POSSIBLE ACTION

D1 Relating to Legislation and Government Actions; discussion and possible action regarding all pending state, federal, and local legislation/government actions and on recent and upcoming meetings of the other governmental bodies (Gilbert Davidson)

EXECUTIVE SESSIONS

Pursuant to A.R.S. § 38-431.03, the Town Council may vote to go into executive session, which will not be open to the public, to discuss certain matters.

E1 Executive Session pursuant to A.R.S. §38-431.03 (A)(3), Council may ask for discussion or consultation for legal advice with the Town Attorney concerning any matter listed on this agenda.

FUTURE AGENDA ITEMS

Notwithstanding the mayor's discretion regarding the items to be placed on the agenda, if three or more Council members request that an item be placed on the agenda, it must be placed on the agenda for the second regular Town Council meeting after the date of the request, pursuant to Marana Town Code Section 2-4-2(B).

ADJOURNMENT

Council-Regular Meeting **P1**

Meeting Date: 12/15/2015

To: Mayor and Council

Submitted For: Steve Miller, Airport Manager

From: Jamsheed Mehta, Deputy Town Manager

Date: December 15, 2015

Strategic Plan Focus Area:
Not Applicable

Subject: Relating to the Marana Regional Airport: Presentation by the Marana Aviation Foundation regarding its mission and planned activities that enhance the visibility of the Marana Regional Airport (Steve Miller)

Discussion:

The Marana Aviation Foundation (MAF) is established as a nonprofit organization to promote aviation-related interest in the Marana community, with emphasis on education, safety, and community service. An informal relationship already exists between the Town and the MAF in organizing educational meetings that benefit professional and prospective aviators. A formal relationship may be considered in the future to ensure that mutually beneficial initiatives and programs - such as hosting of aviation safety meetings, enhancing academic interest at Marana high schools, and show-casing the Marana Regional Airport to aviation enthusiasts in Southern Arizona, can be achieved.

Mr. Allan Aven, President of the Marana Aviation Foundation will provide an overview of the non-profit group and how its mission can benefit the Town of Marana and the regional airport.

Financial Impact:

No Financial Impact.

Staff Recommendation:

Presentation only.

Suggested Motion:
Presentation only.

Attachments

No file(s) attached.

Council-Regular Meeting **C1**

Meeting Date: 12/15/2015

To: Mayor and Council

From: Libby Shelton, Senior Assistant Town Attorney

Date: December 15, 2015

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2015-132: Relating to the Police Department; approving and authorizing the Chief of Police to execute a Data Access/Exchange Agreement between the Town of Marana and the Arizona Department of Transportation Motor Vehicle Division regarding access to the Accident Location Information and Surveillance System (ALISS) database and the Safety Data Mart (Libby Shelton)

Discussion:

The proposed item is a Data Access/Exchange Agreement between Arizona Department of Transportation and the Marana Police Department that will allow authorized Town personnel to submit electronic crash records directly to the ALISS database, to access and retrieve pertinent crash data from the database and to run queries and retrieve crash data for the purposes of safety analysis from the database. The term of this Exchange Agreement is five years.

Staff Recommendation:

Staff recommends approval of the Data Access/Exchange Agreement.

Suggested Motion:

I move to adopt Resolution No. 2015-132 approving and authorizing the Chief of Police to execute a Data Access/Exchange Agreement between the Town of Marana and the Arizona Department of Transportation Motor Vehicle Division regarding access to the Accident Location Information and Surveillance System (ALISS) database and the Safety Data Mart.

Attachments

MARANA RESOLUTION NO. 2015-132

RELATING TO THE POLICE DEPARTMENT; APPROVING AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE A DATA ACCESS/EXCHANGE AGREEMENT BETWEEN THE TOWN OF MARANA AND THE ARIZONA DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE DIVISION REGARDING ACCESS TO THE ACCIDENT LOCATION INFORMATION AND SURVEILLANCE SYSTEM (ALISS) DATABASE AND THE SAFETY DATA MART

WHEREAS the Town of Marana and the Arizona Department of Transportation Motor Vehicle Division desire to enter into a data access/exchange agreement for the purpose of a more efficient exchange of crash records and crash data; and

WHEREAS the Mayor and Council of the Town of Marana feel it is in the best interests of the public to enter into this agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, AS FOLLOWS:

SECTION 1. The Town Council hereby approves the data access/exchange agreement between the Town of Marana and the Arizona Department of Transportation Motor Vehicle Division, attached to and incorporated by this reference in this resolution as Exhibit A, and the Chief of Police is hereby authorized to execute it for and on behalf of the Town of Marana.

SECTION 2. The Town's Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, and objectives of the data access/exchange agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 15th day of December, 2015.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Douglas A. Ducey, Governor
John S. Halikowski, Director
Dallas Hammit, State Engineer
Steve Boschen, Division Director

DATA ACCESS / EXCHANGE AGREEMENT

ADOT File No: **JPA/IGA 15-0005602**

Date:

Name of Department: Town of Marana

Doing Business As: Save As Above

Business Address: **11555 W. Civic Center Drive, Marana, AZ 85653**

Mailing Address: Same As Above

Telephone Number: (520) 382-2000

Town of Marana (AGENCY) hereby requests authorization for connectivity to the Arizona Department of Transportation's (ADOT) (check all that apply):

☒ ALISS Database to submit electronic crash records.

☐ ALISS Database to access and retrieve crash data.

☒ Safety Data Mart to query, analyze and retrieve crash data.

Town of Marana (AGENCY) is authorized to enter into this Agreement pursuant to **§ 48-572**

The AGENCY (as defined below) hereby requests authorization for connectivity to the ALISS Database and/or AIDW Safety Data Mart of the Arizona Department of Transportation, Intermodal Transportation Division (ITD). The AGENCY's specific access capabilities are set forth and further described in the attached Addendum, which shall be considered a part of this Agreement between the AGENCY and ADOT.

The AGENCY understands and agrees that it shall only access the ALISS Database and/or the AIDW Safety Data Mart in accordance with the terms and conditions set forth herein. If at any time ADOT believes the AGENCY is using such access in an unauthorized or unlawful manner, ADOT reserves the right, in its sole discretion, to immediately terminate this Agreement.

This Database Access Agreement complies with GITA Statewide Standard P740-S741, Standard 4.7.3.

Definitions

"ADOT" means the Arizona Department of Transportation.

"AGENCY" means **Town of Marana.**

"ALISS" means the Accident Location, Identification and Surveillance System.

"Authorized individuals" means those persons who are employed or contracted by AGENCY to perform the activities authorized hereunder.

"Connectivity" means to make and/or maintain a computer connection with ADOT for the purpose of performing the activities authorized under this agreement.

"Encrypt" means to scramble computerized information to secure data by using special algorithms for transmission or other purposes.

"Personal Information" means information that identifies an individual, including without limitation an individual's name, photograph, social security number, driver license number, physical description, race, ethnic origin, sexual orientation, income, blood type, DNA code, fingerprints, marital status, religion, home address, home telephone number, education, financial matters, and medical or employment history readily identifiable to a specific individual but does not include information on vehicular accidents, driving violations, and driver's status.

"RACF" means Resource Access Control Facility, which is a software security product that protects information by controlling access to it.

"Secure location" means an area designated specifically for authorized individuals to access ADOT's database(s) and to which all unauthorized individuals shall be prohibited from entering.

"Sensitive Information" means any state information either in detail or aggregate that may be prejudicial or harmful to the state and its citizens.

Location of Activities

AGENCY may conduct authorized activities only at those locations which have been pre-approved by ADOT such as their place of business that adheres to the other guidelines outlined in this Agreement. ADOT reserves the right, in its sole discretion, to disapprove of location.

Equipment

AGENCY shall obtain computer equipment and software that is compatible with the information systems and connectivity requirements of ADOT, and which will allow access only to the specific database(s) listed in the Addendum to this Agreement.

Data Security

AGENCY shall provide a secure location for all computer equipment used to access ADOT's database(s).

AGENCY shall provide access to ADOT's ALISS Database and/or Safety Data Mart only to AGENCY personnel or contractors who are authorized individuals, and to no one else. If at any time ADOT believes that an authorized individual is using such access inappropriately, ADOT reserves the right to immediately terminate that individual's database access and/or to terminate AGENCY authorization under this Agreement.

AGENCY shall comply with all ADOT policies, procedures and directives regarding security and database access, including any future amendments thereto. All subcontractors utilized to perform the activities authorized by this Agreement must abide by the same security and access requirements as AGENCY.

AGENCY must disclose and obtain ADOT approval of any existing and/or contemplated strategic alliances, partnerships, Intergovernmental Agreements or subcontracting arrangements that AGENCY has or will enter into which involve the processing and/or use of ADOT data acquired pursuant to this Agreement.

AGENCY, its officers, agents, employees, contractors and representatives shall not, without the prior written approval of ADOT, disclose, distribute, or utilize in any manner not expressly authorized under this Agreement, any personal or sensitive information which is connected or otherwise associated with or accessed pursuant to this Agreement, either during the term of this Agreement or subsequent to any termination of this Agreement.

AGENCY shall maintain all hard copy information and electronic data related to this Agreement in a secure location at all times.

Data Privacy

AGENCY shall not utilize its computer connections with ADOT for any purpose other than the purpose(s) specified in the Addendum to this Agreement.

Network Security

AGENCY understands and agrees that any and all personal or sensitive information that it stores or transmits over external or public computer networks, such as the Internet, must be encrypted.

AGENCY computers that are permanently or intermittently connected to internal computer networks must have an ADOT approved, password-based, access control system in order to access ADOT's database(s). This requirement applies to computers with direct connections to data centers, as well as AGENCY "wide area network." Regardless of the network connections, all AGENCY computers which are used to access ADOT information must employ approved, password-based, access control systems.

All in-bound connections to AGENCY computers from external networks must also be protected. All access control systems must utilize user-identifications (i.e. RACF ID's) and passwords unique to each user, as well as user-privilege restriction mechanisms. Password sharing is prohibited.

Non-exclusivity

This Agreement shall not preclude ADOT from entering into the same or similar Agreement with other public or private entities, including those performing identical or similar functions as AGENCY.

Notification

AGENCY shall assign a contact person for problem resolution and notification of procedural changes. AGENCY shall advise ADOT within two business days of any change in its designated contact person. All notices or demands upon either party shall be in writing and an original shall be delivered in person, or sent by mail addressed as follows:

To ADOT at:

Intermodal Transportation Division
Traffic Records Section
ATTN: Rick Turner
206 S. 17th Ave, Mail Drop 064R
Phoenix, AZ 85007-3233

To AGENCY at:

Town of Marana
11555 W. Civic Center Drive
Marana, AZ 85653
Contact: Carl Drescher
Phone: (520) 382-2000
Fax # (520) 382-2069

Records

The AGENCY shall maintain a log or register of all ADOT records it requests and all ADOT records it obtains by virtue of the access provided herein. The AGENCY shall retain this log or register either manually or electronically for a period of five years after the date of request and receipt of the records. All other books, papers, records, data, and accounting records relating to this Agreement ("Records") shall be maintained by AGENCY for a period of five (5) years, or such greater or lesser time as may be required by federal or state law, rule, or the ADOT Records Retention Schedule. The Records shall be subject to inspection and audit by ADOT for five years after termination or completion of this Agreement. The Records shall be produced at the offices designated by ADOT.

It is further agreed that ownership of all records relating to this Agreement resides exclusively with ADOT, except for data retrieved pursuant to this Agreement.

Compliance

AGENCY shall comply with all of the terms set forth in this Agreement, together with all applicable state statutes, rules, and regulations. AGENCY shall also comply with all relevant ADOT policies, procedures and directives that ADOT provides to AGENCY throughout the course of this Agreement. All AGENCY subcontractors are held to the same compliance standards, and any failure to comply on the part of the subcontractor will be deemed a failure on the part of AGENCY.

Non-compliance

If AGENCY fails to comply with the terms of this Agreement, or with any applicable law, rule or regulation, ADOT reserves the right to take any remedial action that it deems necessary and appropriate, including without limitation the suspension, cancellation, revocation, or termination of this Agreement. In case of a violation of law, the Agreement shall immediately terminate.

Amendment and Modification of Agreement

AGENCY shall review and approve in writing any modification of the Agreement. Upon the amendment of any applicable law, rule or regulation, the Agreement shall automatically be modified to reflect such amendment. Any modification of the Agreement shall be incorporated herein and shall be subject to all other provisions of this Agreement. AGENCY may submit a written request to ADOT if there are any changes it desires be made to the Agreement, and such a request shall be approved or denied at ADOT's sole discretion.

Termination

Either party may terminate this Agreement for convenience or cause upon thirty (30) days prior written notice to the other party. Upon any termination of this Agreement, AGENCY shall, at ADOT's request, remove and deliver to ITD all electronic data stored on any electronic storage devices and shall immediately return all other data and information received in connection herewith to ADOT.

This Agreement is subject to cancellation by the Governor pursuant to A.R.S. §38-511. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract of any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.

Waiver/Severability

AGENCY agrees that a waiver of any provision of this Agreement shall not act as a waiver of any other provision of this Agreement. If a provision of this Agreement is for any reason declared invalid, illegal, or unenforceable, that declaration shall not affect the remainder of the provisions of the Agreement.

Duration

This Agreement shall commence upon approval by the Assistant Division Director, Executive Services Group and execution by both parties, and shall thereafter continue in effect for a term of five (5) years, unless previously terminated or canceled as provided herein. Upon expiration of this five (5) year period, the parties may mutually agree to extend the term of the Agreement for another five (5) (or fewer) years by entering into an Amendment to this Agreement.

Liability

ADOT assumes no financial obligation or liability under this Agreement. The AGENCY assumes full responsibility for any liability which arises out of this Agreement. Any damages arising from carrying out or resulting from, in any respect, the terms of this Agreement or any modification thereof shall be the liability of the AGENCY and that to the extent permitted by law, the AGENCY hereby agrees to indemnify, defend and otherwise save and hold harmless the State of Arizona and ADOT, and any of their departments, agencies, officers or employees from any and all losses and associated costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non performance of any provisions of this Agreement by the State of Arizona or ADOT, or any of their departments, agencies, officers and employees, or their independent contractors, the AGENCY, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State of Arizona or ADOT, any of their departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

Certification

On behalf of AGENCY identified below, I hereby request approval of this Agreement. I certify that all of the information set forth herein by AGENCY is true and accurate, and that any records or information obtained from ADOT's database(s) and system(s) pursuant to this Agreement will be used solely for the purpose(s) specified in the Addendum to this Agreement, and for no other purposes. I further certify that I have the authority to execute this Agreement on behalf of AGENCY. I understand that AGENCY must abide by the provisions of this Agreement if approved by the Assistant Division Director, Executive Services Group and executed by both parties.

Mandatory Provisions for Arizona State Agencies

None of the provisions of the Agreement may be waived, changed of altered except in writing signed by both parties.

Notwithstanding any provision of the Agreement to the contrary, ADOT is not authorized to indemnify the AGENCY.

Every payment obligation of the ADOT under this Agreement is conditioned upon the availability of funds allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by ADOT or any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to ADOT or any other agency of the State of Arizona in the event this provision is exercised, and neither ADOT nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

AGENCY shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules, and regulations, including the American with Disabilities Act. AGENCY shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

Compliance requirement for A.R.S. 41-4401 – immigration laws and E-Verify requirement.

- The AGENCY warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)

- A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breech of the contract and the AGENCY may be subject to penalties up to and including termination of the Agreement.

- ADOT retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the AGENCY or subcontractor is complying with the above-mentioned warranty.

Joint Venturer – Except as otherwise provided by law, in the performance of duties and activities under this Agreement, the parties hereto will be acting in their individual governmental capacities and not as agents, employees, partners, joint ventures, or associates of each other. The officers, employees, agents, or subcontractors of one party shall not be deemed or construed to be the employees or agents of the other party. Each party shall remain responsible for the supervision of their respective staff and students and shall maintain adequate insurance coverage as required by law.

AGENCY assigns to ADOT any claim for overcharges resulting form antitrust violations to the extent that such violations concern materials or services supplied by third parties to AGENCY toward fulfillment of this Agreement.

This Agreement shall be construed in accordance to the laws of the State of Arizona.

The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. 12-1518 except as may be required by other applicable statutes.

The parties may execute this Agreement in two or more counterparts, each of which shall be deemed an original and together which shall constitute one and the same document.

Town of Marana

_____
Signature

Terry Rozema
_____
Name Printed

Chief of Police
_____
Title

_____
Date

For ADOT USE ONLY

Received this date _____. Signed _____

AUTHORIZATION

On behalf of the Arizona Department of Transportation, the authorization requested by **Town of Marana** pursuant to this Agreement (including the attached Addendum) is hereby approved.

DATED THIS _____ DAY OF _____, 20_____.

Intermodal Transportation Division / Traffic Engineering

_____
STEVE BOSCHEN, P.E.
ITD Director
Arizona Department of Transportation

AGREEMENT ADDENDUM

THIS ADDENDUM is made and entered into pursuant to A.R.S. §§28-401 et seq. and with GITA Statewide Standard P740-S741, Standard 4.7.3, as part of the foregoing Data Access / Exchange Agreement between the Arizona Department of Transportation (ADOT) and the Town of Marana (AGENCY).

Subject to ADOT's right to terminate as set forth in this Agreement:

I. ADOT <grants/~~does not grant~~> AGENCY authorization to access its ALISS Database via approved direct program-to-program interactions over an approved persistent connection and to thereby submit electronic crash records information contained in such databases according to the terms and conditions stated in this Agreement. Electronic crash records shall be submitted no more than once per day.

II. ADOT <~~grants~~/does not grant> AGENCY authorization to access its ALISS Database via an approved secure gateway and with two-factor authentication to retrieve pertinent crash records data including vehicle information according to the terms and conditions stated in this agreement.

III. ADOT <grants/~~does not grant~~> AGENCY authorization to access its Safety Data Mart via an approved secure gateway and with user identifications and passwords unique to each user to run queries and retrieve crash data strictly for the purposes of safety analysis and in accordance with the terms and conditions stated in this agreement. Data query and retrieval may be done on an as-needed basis.

The foregoing Agreement and Addendum are mutually agreed to:

Intermodal Transportation Division/Traffic Engineering	Town of Marana
_____	_____
Signature	Signature
STEVE BOSCHEN, P.E.	Terry Rozema
Name Printed	Name Printed
ITD Director	Chief of Police
Title	Title
_____	_____
Date	Date

Council-Regular Meeting **C2**

Meeting Date: 12/15/2015

To: Mayor and Council

Submitted For: Jocelyn C. Bronson, Town Clerk

From: Suzanne Sutherland, Assistant to the Town Clerk

Date: December 15, 2015

Subject: Approval of December 1, 2015 Regular Council Meeting Minutes (Jocelyn C. Bronson)

Attachments

December 1, 2015 Draft Minutes

REGULAR COUNCIL MEETING
MINUTES
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, December 1, 2015 at or after 7:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
Carol McGorray, Council Member
Roxanne Ziegler, Council Member

REGULAR COUNCIL MEETING

CALL TO ORDER AND ROLL CALL. Mayor Honea called the meeting to order at 7:01 p.m. **Town Clerk Bronson** called roll. All Council Members were present except Council Member Kai, who was excused.

PLEDGE OF ALLEGIANCE/INVOCATION/MOMENT OF SILENCE. The **Marana High School Chamber Choir** led by Sarah Ross sang the National Anthem in lieu of the pledge of allegiance.

APPROVAL OF AGENDA. ***Motion to approve by Council Member Bowen, second by Council Member McGorray. Passed unanimously 6-0.***

CALL TO THE PUBLIC. David Morales spoke regarding the opening of the Marana, Arizona Veterans Memorial Cemetery in January 2016. He also noted that the local service Chapter 4 of the DAV (Disabled American Veterans) of which he is the Chief Service Officer is at risk for closure due to lack of funds. The chapter has 11 service officers and is self-supporting through donations. He noted that Chapter volunteers would be at the holiday festivities on December 5 to accept donations to help keep the chapter going.

PROCLAMATIONS

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS. Council Member Bowen reported on his attendance at the Arizona Town Hall held in Mesa. The topic was water. He highly recommended the Town Hall as a great opportunity. **Council Members Ziegler and McGorray** reported on the recent Tangerine Road widening project held at The Highlands to standing room only. Both Council Members stated how well-organized and concise the presentation was and thanked both Ryan Mahoney and Keith Brann for their efforts in regard to the presentation. **Council Member Ziegler** also reported on the El Tour de Tucson dinner which she and other Council Members attended. She noted the very nice remarks Mayor Honea made to former Congresswoman Gabrielle Giffords and her husband, Mark Kelly. **Mayor Honea** stated that there would be a ribbon cutting for the Valencia Road project – a project that has regional importance.

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS. Gilbert Davidson announced that the annual holiday festival and tree lighting activities will be Saturday, December 5, 2015 at the Town Hall from 3 – 8 p.m. This is a great family event with many performances and activities for all ages. He also noted that the November Executive Report is in process and will be available early next week.

PRESENTATIONS

P1 Relating to Parks and Recreation; presentation and discussion regarding the 2016 Town of Marana Parks, Recreation, Trails, and Open Space Master Plan update.

Presented by **Tom Ellis.** He noted that under the town's current strategic plan, the Parks & Recreation department is directed to update its 2010 master plan. This plan encompasses the vision for the department as well as provides for the daily operations. The intention was to turn Marana into a park destination. As with all plans, it was intended to be modified every five years or so to meet changing needs and environmental concerns. The key questions discussed in the master plan update include what facilities and programs currently exist, who uses the facilities and programs, and what role do the facilities and open space programs have in the lives of residents, what types of facilities are needed and what are the most important, what changes or additions need to be made to existing facilities, and how can we work more collaboratively with neighboring jurisdictions such as state land and national parks and monuments to keep progressing in a positive manner.

The update will primarily be accomplished in-house by Parks & Recreation staff with support from other town departments, including Planning, Community Development, Finance, Legal, Technical Services and the Town Manager's office. A major effort will be directed toward getting community input from online and face-to face surveys, focus groups and public and stakeholder meetings. Updating the Plan gives his staff a chance to evaluate current conditions within and outside the department and to make relevant upgrades and additions to neighborhoods and businesses that provide recreation opportunities. Parks staff will be spending an enormous amount of time after the first of the year reaching out to the community for input. This will also help staff compare what we have versus what other communities with similar resources have so that we are not duplicating services. This will enable us to make better use of our financial and staffing resources. The data from all the inventories and community input will then be analyzed

and a strategic action plan will be developed. At the end of the process, Parks staff will work with Finance to make sure any strategy is sustainable, has merit and the ability to be accomplished.

Parks staff will continue to keep Council updated as the process unfolds. The ultimate plan is to have the document ready for Council adoption in June 2016. Mr. Ellis concluded that it is a privilege to work in a community where recreation is a focus area of the Strategic Plan.

P2 Relating to Development; a presentation for initial Council review, discussion, and comments on the proposed Linda Vista Village at Cascada Specific Plan. The property is generally located on the east side of Interstate 10, approximately a mile from the Twin Peaks Road interchange, on Linda Vista Boulevard. **Steve Cheslak** introduced **Stacey Weaks** from Red Point Development to review the project for Council. This was originally scheduled to be a study session presentation. It is a 155-acre rezoning on Linda Vista Boulevard adjacent to the Marana Center project. Mr. Weaks noted that his group has been working on this plan for over a year and just concluded a neighborhood meeting in mid-November. This project is a sibling to Cascada Village. In evaluating the project they looked at the existing zoning within a quarter mile radius of the proposed project for both commercial and residential use.

The land use classifications for this project are to build on to the employment center next to the Marana Center, residential, common area and natural undisturbed open space. Access will be primarily from Linda Vista Boulevard. Secondary access will be right in/right out along Linda Vista Boulevard. There will be a north/south spine road to provide access to the different planning areas as well as access to the south to provide access to one of the planning areas of the adjacent property owner to Linda Vista. Total open space will cover 36 percent of the site or approximately 55 acres. There will be additional internal common area, park space and trail corridors allocated to each planning area, with over 40 percent of the site dedicated to these features. The maximum number of dwelling units is 851.

Mr. Weaks then gave more detail on the diversity of allowed uses within the employment center. These are residential densities in different forms, commercial and retail opportunities, and health care facilities. One of the things they have been cognizant of observing is the relationship to the developed residential areas to the north and east. They have created a 50-foot buffer along the Oasis Hills development and a 700-foot buffer between Hartman Vistas and the planning areas. Another major component is for recreation and trails, building on Mr. Ellis' vision to create that quality of life. He illustrated the conceptual planning study and general overview to give Council a feel for the vision for the project. He did note in response to questions about the number of units that it is more likely they will be in the upper 500's, and there is flexibility built into the project for multi-family development, especially toward the southern end of the project. **Mr. Davidson** noted that this project will go to the Planning Commission on December 16, 2015 and then back to Council in January. This presentation was initially intended as a preview in a study session. **Council Member Ziegler** thanked him for having neighborhood meetings and requested that he continue to keep the surrounding neighbors informed about the project.

P3 Relating to Budget; presentation of first quarter results for the Town's General Fund and other selected major funds for the 2015-16 fiscal year. **Erik Montague** presented this report

which represents the period July through September, focusing on the General Fund and other selected major funds. The big three general fund revenues are comprised of sales tax, state shared revenues and licenses, permits & fees which comprise over 90 percent of the fund.

For sales taxes, we are where we hoped to be excluding the additional half cent sales tax. Those revenues are going to the special fund. We might be slightly ahead based on seasonality and conservative projections from the Mall revenues. The Mall numbers won't be available for another 2-3 weeks. Sales taxes year over year from where we were first quarter last year are up almost 12 percent. There are two main factors – one is an error, an overpayment of $165K made by Department of Revenue (DOR) which will be corrected next quarter. The other factor is adjustments in the rate. However, everything does appear to be okay year over year. The numbers will be a bit skewed until we get enough history with the new detail in the tax journal. Intergovernmental revenues are up slightly. License, permits & fees are down year over year. The biggest driver of that is that commercial permits are down. Single family residential permits are pretty much on the mark for the first quarter.

Expenditures by broad category are basically where we hoped to be; maybe lagging slightly. Personnel costs, about two-thirds of the operating budget, is where we had hoped to be. The same for contracted services. Some of the operating transfers are lagging, but it is anticipated that they will catch up in future quarters as projects and programs occur. Within these numbers for the 2016 budget we have included a $5M expenditure contingency as well as revenues for the downtown sewer project for the gravity portion. The force main portion will be on a separate funding source. Year over year we are pretty much where we had hoped to be. We have accumulated through the first quarter of FY 2016 about $1.8M in cash and this is reasonably consistent with the prior quarters. We are accumulating cash for debt fund transfers in anticipation of those other projects coming on line. The debt fund transfers will occur in January.

Another fund is the Bed Tax Fund driven by state statute which requires that if we have a discriminatory tax rate – that is, if our discriminatory bed tax is higher than our TPT rate, that discriminatory portion needs to be used for tourism purposes. Numbers are lagging lightly in sales tax revenues, possibly due to seasonality. A lot of those numbers will come back. These revenues are important in light of our tourism activities.

The Highway Users Revenue Fund (HURF) is vital to us as it pays for a significant portion of the maintenance costs of our streets. These are allocated on population estimates, and we are pretty much where we hoped to be based on estimated numbers. Expenditures are within expectations. For the first quarter, we have accumulated a modest $93K in cash with the net revenues. We are anticipating a $1.3M draw in the HURF fund due to the accumulation of cash in the previous years. There are certain projects that carried over as well as some one-time projects.

The Water Operating Fund is for handling water sales and the maintenance and distribution system. We are pretty much where we had hoped to be at about 22 percent. For the first three months we are at 67 connections. Expenditures are within expectations although commercial is lagging slightly but is expected to pick up. For Wastewater, we are where we had hoped to be on a straight line basis or about 26 percent of revenue, about $248K of the budget. For the first three

months, we have accumulated net revenues in excess of expenses of $98K. In addition to this report, Council was provided with an additional set of pages which provides more narrative.

Council Member Bowen asked if Mr. Montague recalled what the reserve fund would be at the end of the fiscal year. **Mr. Montague** responded that it was $18-19M. **Council Member Ziegler** asked about the fund the town set up last year for Honea Heights septic failures. **Mr. Montague** responded that a strategy was implemented to set aside emergency funds of about $75K. He didn't have a current update, but stated that it has been modestly active with applications and processing. In the last fiscal cycle for 2014-15, most of those dollars were used. **Mr. Davidson** interjected that the fund is still viable if there is anything we need to deal with in that neighborhood. **Vice Mayor Post** noted that with the addition of the half cent sales tax, it looks like the sales tax collection is down considerably. **Mr. Montague** stated that the half cent sales tax is not included in this number and is located in a separate fund. That is one of the additional funds that staff may bring forward again. For the first three months, we've collected just above $1M from the half cent sales tax for this year.

CONSENT AGENDA. ***Motion to approve by Vice Mayor Post, second by Council Member Bowen. Passed unanimously 6-0.***

C1 Resolution 2015-127: Relating to Development; approving a final plat for Tangerine Ridge, Lots 1-197, Block "1" (Lift Station) and Common Area "A" (Private Streets), Common Area "B" (Drainage/Functional Open Space), and Common Area "C" (Natural Undisturbed Open Space) generally located near the southwest corner of W. Tangerine Road and N. Migitty Lane (Shannon Shula)

C2 Resolution No. 2015-128: Relating to Community Development; approving and authorizing the Mayor to execute Amendment Number 1 to the intergovernmental agreement between Pima County and the Town of Marana for the management and implementation of the 2014-2015 Community Development Block Grant Program to extend the term of the agreement (Lisa Shafer)

C3 Resolution No. 2015-129: Relating to Boards, Commissions and Committees; revising the formal Marana Citizens' Forum process; and clarifying provisions regarding the appointment and reappointment procedures for delegates to the Forum (Jocelyn Bronson)

C4 Resolution No. 2015-130: Relating to Economic Development; approving and authorizing the Mayor to execute a Grant-in-Aid Fiscal Agent Agreement between the Tohono O'odham Nation and the Town of Marana for the purpose of funding a dedicated Economic Development Strategic Plan (Curt Woody)

C5 Approval of November 17, 2015 Regular Council Meeting Minutes (Jocelyn C. Bronson)

LIQUOR LICENSES

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

A1 Ordinance No. 2015.020: Relating to Utilities; amending Town Code Title 14 (Utilities) by revising Chapter 14-6 (Rates and Charges) to add new section 14-6-4 (Bill adjustment for excessive water leak). Presented by **John Kmiec** for Amanda Jones. This item is something that is currently not in the town code -- primarily in regard to single family customers that could cause an undue financial hardship on the customer. For single family residences, Marana does use the tiered rate structure, which is commonly used in the western United States. It is designed to promote conservation and behavior change in single family units. This is done by incentivizing at different tiers. The less water used, the lower the rate and vice versa. He showed a slide giving the rates for gallons used per month. A service line leak or an internal plumbing leak which goes unnoticed or undetected can take a resident out of the first tier and accelerate them quickly to a tier that creates a financial burden.

Staff is proposing an amendment to the town code to come up with criteria to guide staff to help single family residential customers in good standing. The methodology is to take 3 times the customer's average water use over the preceding 12-month period. A flat irrigation rate would be applied for anything over that three times rate, so it won't keep escalating into the tiers as it does now. The irrigation rate is equal to the second tier in the tiered structure. This would only be applicable once every 36 months. The goal is to apply relief for an unforeseen rather than a water-wasting event at a homestead. This allows the utility to continue to recover the cost of water rate through the meter; but we are not dismissing charges. The groundwater resources rate, which is separate from the consumption rate, would still be collected in full because that was expended even through the leak. Mr. Kmiec then showed a slide with an extreme example of the ordinance put into effect. **Council Member Bowen** asked if proof of the correction is required, to which **Mr. Kmiec** responded that staff is drafting an application requiring proof of what the issue was as well as proof that it was corrected by the following month. Any time staff sees a high water use outside of a normal range, service staff would call the resident; that is standard procedure. We would advise them that they can come to the department within the month and apply to get this leak adjustment review going. In that review process, the customer would not be charged late fees or other penalties. We would put a hold on that bill until they submitted their paperwork within the time frame. **Council Member Bowen** asked if water staff read meters manually. **Mr. Kmiec** responded that meters are read electronically. **Vice Mayor Post** asked if Tier 2 was the lowest we could go. **Mr. Kmiec** responded that the average Marana customer is around 6,500-7,000/gallons per month. When that was multiplied by 2, it gave it a Tier 2 rate structure. Anything lower than that would be an incredibly large break. In his opinion, the Tier 1 rate would not cover the town's costs which is why staff decided on Tier 2 (the true cost). The customer can make payments for the leak spread out over 12 months. **Vice Mayor Post** asked if the industry would eventually be able to design meters to turn water off when it gets to a certain amount of gallons that would be considered excessive based on normal use to avoid this type of situation. **Mr. Kmiec** responded that the industry, particularly in Europe, is coming up with designs that can control water use or shut off water meters at various times of day. That doesn't appear to be very popular in America. But the town's water department does collect data at a very granular level, so if a normal water customer doubles their water use and doesn't know where their water leak is coming from, staff can download the data and track it to show an event at a certain time on a particular day. Sometimes the customer will

do a fix and a new data download can then show that the fix corrected the issue. ***Motion to approve by Council Member Bowen, second by Vice Mayor Post. Passed unanimously 6-0.***

A2 Resolution No. 2015-131: Relating to Administration; approving the transfer of up to $350,000 in budgeted expenditure authority from the General Fund contingency line item to the Pines 1, Road Stabilization Project in the fiscal year 2015-2016 budget to pay for anticipated costs associated with this Project. **Erik Montague** stated that in June 2015, staff reported to Council on an emergency purchase related to a sediment of soil issue along portions of North Mountain Pine Way in The Pines development. Staff reported at that time that there had been some form of an extraction pit that had been filled with what appeared to be inadequate soils. Those soils were settling or lifting in certain driveways and the roadway. Staff identified an estimated cost and a strategy to handle the settling issue. A contractor was identified, mobilized and began addressing the fix for stabilization and lifts. Further investigation of the area produced information that additional costs would be necessary to complete a more thorough stabilization.

Because of the possibility of the additional costs, it falls outside of the scope of what had been identified to take from the existing funding sources. The item before Council tonight is for consideration of allocating contingency funds for any unforeseen event associated with this project. **Keith Brann** provided a brief update related to the project. At the time the town identified the situation, it was unclear whether Richmond American would participate in the fix outside of the public right of way. They have, and they are also mobilizing there and working within private lots. A meeting was held at Wheeler Taft Library with the residents to review the game plan. The meeting was well-attended by the residents. Staff did proceed to do a full scope of the area which led to stabilizing more depth and adding two houses to the project. On the north side of the street, two houses were taken out of the project because the borings showed no physical settlement in the area. Staff is working on a change order with the contractor, who is extending the exact unit prices of what he was using already, so there has been no premium on that. The deep stabilization is nearly complete, and the lifting phase should be completed by the end of December. Subsequent to that, Pima County Wastewater is going to fix their line. The town has teamed with Pima County to use the same contractor to do the final street repairs. Although we have been in constant contact with the most affected residents, when the final repairs are complete, staff will have another meeting with them. **Council Member Ziegler** asked if each major entity would be picking up their own costs for the repairs. **Mr. Brann** responded that as of right now, Pima County is paying to repair their sewer line. Richmond American is covering all costs outside of the public right of way. The town is working on the deep stabilization within the right-of-way and will be repairing the street. ***Motion to approve by Council Member Ziegler, second by Council Member McGorray. Passed unanimously 6-0.***

ITEMS FOR DISCUSSION/POSSIBLE ACTION

Relating to Legislation and Government Actions; discussion and possible action regarding all pending state, federal, and local legislation/government actions and on recent and upcoming meetings of the other governmental bodies (Gilbert Davidson)

EXECUTIVE SESSIONS. ***Motion to go into executive session on Item E 2 by Vice Mayor Post, second by Council Member Bowen at 8:18 p.m. Passed unanimously 6-0.***

1. Executive Session pursuant to A.R.S. §38-431.03 (A)(3), Council may ask for discussion or consultation for legal advice with the Town Attorney concerning any matter listed on this agenda.

2. Executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town's attorneys in order to consider the Town's position and instruct its attorneys regarding the Town's position regarding the notice of claim filed November 24, 2015, by Beus Gilbert, PLLC, attorneys at law, on behalf of Mandarina, LLC, arising out of the planned alignment of Tangerine Road. **No action necessary.**

FUTURE AGENDA ITEMS

ADJOURNMENT. ***Motion to adjourn at 8:38 p.m. by Vice Mayor Post, second by Council Member Bowen. Passed unanimously 6-0.***

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Town Council meeting held on December 1, 2015. I further certify that a quorum was present.

_____

Jocelyn C. Bronson, Town Clerk

DRAFT

Council-Regular Meeting **B1**

Meeting Date: 12/15/2015

To: Mayor and Council

From: Jocelyn C. Bronson, Town Clerk

Date: December 15, 2015

Strategic Plan Focus Area:
Community

Subject: Relating to Boards, Commissions and Committees; selecting three potential topics for the Winter 2016 Marana Citizens' Forum (Jocelyn C. Bronson)

Discussion:

Tonight, the Council is being asked to select its top three potential topics for deliberation by the Marana Citizens' Forum Winter 2016 session delegates. Each Council Member will be asked to select his or her top three choices; Council Member votes will then be tallied, and the top three topics will be presented to the Forum to select a single session topic. Staff will present the three approved topics, along with brief background reports to provide content, to the Forum delegates at the January 7, 2016 orientation meeting. The delegates will vote to select their topic for deliberation during the Winter 2016 session. Topics not selected will be returned to the topic list, if applicable.

The suggested topics include:

1. Parks
2. Community Development
3. Community Partners
4. Technology
5. Voter Turnout Improvement

More information regarding the specific issues being proposed for discussion is included on the attached background sheet.

Staff Recommendation:

Council's pleasure.

Suggested Motion:

No motion is necessary. Pursuant to the procedure adopted by Council on November 18, 2014, after tallying the Council Members' topic selections, staff will forward the top three choices to the Forum for the Winter 2016 session.

Attachments

Potential Topics

MARANA, ARIZONA
YOUR TOWN CITIZENS' FORUM

Potential Citizens' Forum Topics for Winter 2016

1. ***Parks:*** What more can we do regarding parks? Answer the following questions and create a recommendation for inclusion in the Parks Master Plan:

   a. Who uses the facilities and programs?
   b. What role do these facilities and programs play in the community?
   c. How do these facilities and programs affect the lives of residents?
   d. What types of facilities and programs are/will be needed in the future?
   e. How can we collaborate with neighboring jurisdictions (State Land and National Parks & Monuments) to keep progressing in a positive manner?

2. ***Technology:*** What does the Town have to do in order to ensure that it is prepared for future technology, and to remain relevant as a government entity? Imagine future methods of service delivery, ranging from Development Services, to voting, to Economic Development, to Community Engagement, Public Safety and Utilities.

3. ***Community Development:*** How can we enhance public engagement related to addressing special events, Town forums, social media, community cleanup events, open houses for events, etc.?

4. ***Community Partners:*** Identify organizations that currently collaborate with the Town and vice versa, as well as the methods in which they collaborate. Are there opportunities to do more with these organizations, and if so, what? What challenges do we face when collaborating with

   Community Partners and how can we avoid or overcome these challenges? Are there partners we should be collaborating with already, but aren't? In the end, do these collaborative plans and processes even matter? Use this information to create or plan a Community Partner collaboration like none we've seen before, or perhaps synthesize that information into a 1 and 5 year plan.

5. ***Voter Turnout Improvement***: Develop an outreach program aimed toward greater citizen/ voter participation in the local election process.

Council-Regular Meeting **A1**

Meeting Date: 12/15/2015

To: Mayor and Council

Submitted For: Jennifer Christelman, Engineering Division Manager

From: Keith Brann, Town Engineer

Date: December 15, 2015

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2015-133: Relating to Public Works; withdrawing the Town of Marana as a co-sponsor of the Tres Rios del Norte feasibility study (Jennifer Christelman)

Discussion:

The Town of Marana signed on as a local sponsor to the Corps of Engineers' Tres Rios del Norte Feasibility Study in 2001 with the City of Tucson and Pima County. The Town was interested in restoration for the 18 mile stretch of the Santa Cruz River between Prince Road and Sanders Road for the ecosystem restoration, flood control, water supply, and recreational benefits. By becoming a local sponsor the Town would be a partner to plan for the future of the Santa Cruz River. The Town would also have the ability to get 65% federal cost sharing for construction of future projects that were identified in the study. Since the initial participation in the study a lot has changed as it relates to water for the Town of Marana. The cost of water continues to go up and with the City of Tucson withdrawing as a local sponsor in 2009, the needs for water also has gone up. After construction, the estimated cost for operations and maintenance for the entire project is $18M annually including the cost to purchase water.

Financial Impact:

Fiscal Year:	FY16
Budgeted Y/N	Y
Amount:	$500.00

Current funding towards this project is only $500 - for the Town's remaining obligation under the study for outreach materials. Future costs should the Town continue to sponsor the project could range from $1.2-1.8 million in design costs; $19-133 million in construction costs; and $18-20 million in annual operating costs (the majority of which is the cost of water).

Staff Recommendation:

Staff recommends adoption of Resolution 2015-133, withdrawing the Town of Marana as a co-sponsor of the Tres Rios del Norte feasibility study.

Suggested Motion:

I move to adopt Resolution 2015-133, withdrawing the Town of Marana as a co-sponsor of the Tres Rios del Norte feasibility study.

Attachments

Resolution No. 2015-133

MARANA RESOLUTION NO. 2015-133

RELATING TO PUBLIC WORKS; WITHDRAWING THE TOWN OF MARANA AS A CO-SPONSOR OF THE TRES RIOS DEL NORTE FEASIBILITY STUDY

WHEREAS Town of Marana Resolution 2001-109 authorized the Town of Marana to be a participating sponsor of the Tres Rios del Norte feasibility study in cooperation with the United States Army Corps of Engineers and original local co-sponsors Pima County Flood Control District and the City of Tucson; and

WHEREAS the ongoing Tres Rios del Norte feasibility study is investigating potential projects for flood control, groundwater recharge, riparian habitat restoration, and enhancement of recreational and cultural resources in the Santa Cruz River channel from Prince Road to Sanders Road; and

WHEREAS the City of Tucson withdrew as a local co-sponsor of Tres Rios in 2009, citing high anticipated financial and water resource commitments; and

WHEREAS a lack of federal appropriations in support of the Tres Rios del Norte feasibility project over the years has left it underfunded and unlikely to meet its goals or to identify feasible, locally beneficial projects without substantial additional local sponsor financial and water resource contributions; and

WHEREAS the Town of Marana is current on any and all contributions in any way associated with Tres Rios; and

WHEREAS the Mayor and Council of the Town of Marana find that this resolution is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, withdrawing the Town of Marana as a local co-sponsor of the Tres Rios del Norte feasibility study.

IT IS FURTHER RESOLVED that the Town Manager and staff are hereby authorized to undertake all other and further tasks required or beneficial to carry out this resolution.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 15th day of December, 2015.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Council-Regular Meeting **A2**

Meeting Date: 12/15/2015

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: December 15, 2015

Strategic Plan Focus Area:
Commerce

Strategic Plan Focus Area Additional Info:
Principle Statement 1 / Initiative 1. Update the Land Development Code to enhance simplicity, understanding and ease of use

Subject: **PUBLIC HEARING:** Ordinance No. 2015.021**:** Relating to Development; adopting comprehensive revisions to and reformatting and consolidation of Marana Land Development Code Title 1 (Title, Intent, and Purpose); Title 2 (Administration); Title 3 (Definitions); Title 4 (Planning); Section 05.04 (Nonconforming Structures and Land Uses) and all of Section 05.05 (Relationships to Streets, Other Structures, and Other Property) except Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C); Title 6 (Subdivisions); Title 7 (Large Scale Developments); all of Title 8 (General Development Regulations) except Section 08.06 (Residential Design) and Section 08.07 (Commercial Design Standards); Title 9 (Administration and Enforcement); Title 10 (Procedures); Title 11 (Prohibition of Illegal and Nuisance Uses); Title 12 (Conflict of Interest); Title 13 (Penalty); Title 14 (Severability); Title 15 (Repeal of Other Ordinances and Effective Date); Title 21 (Flood Plain and Erosion Hazard Management Code); and Title 25 (Stormwater Management) into Title 17 (Land Development) of the Marana Town Code (Frank Cassidy)

Resolution No. 2015-134: Relating to Development; declaring as a public record filed with the Town Clerk the amendments adopted by Ordinance No. 2015.021, comprehensive revisions to and reformatting and consolidation of Marana Land Development Code Title 1 (Title, Intent, and Purpose); Title 2 (Administration); Title 3 (Definitions); Title 4 (Planning); Section 05.04 (Nonconforming Structures and Land Uses) and all of Section 05.05 (Relationships to Streets, Other Structures, and Other Property) except Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C); Title 6 (Subdivisions); Title 7 (Large Scale Developments); all of Title 8 (General

Development Regulations) except Section 08.06 (Residential Design) and Section 08.07 (Commercial Design Standards); Title 9 (Administration and Enforcement); Title 10 (Procedures); Title 11 (Prohibition of Illegal and Nuisance Uses); Title 12 (Conflict of Interest); Title 13 (Penalty); Title 14 (Severability); Title 15 (Repeal of Other Ordinances and Effective Date); Title 21 (Flood Plain and Erosion Hazard Management Code); and Title 25 (Stormwater Management) into Title 17 (Land Development) of the Marana Town Code (Frank Cassidy)

Discussion:

As presented at a September 15 Council study session, Planning and Legal staff are recommending amendments to the LDC separate from and prior to the process of having an outside consultant update the entire LDC. Much of the language in the administrative provisions of the LDC is out of date and can be deleted. Clarification and clean-up of other sections would be useful prior to the comprehensive rewrite to reflect current procedures and standards.

This agenda item includes administrative clean-up and technical provision reformatting.

- Administrative clean-up: The administrative clean up would bring these sections in conformance to the Town Code format, insert the rewritten provisions into Title 17 (Land Development) of the Town Code and remove them entirely out of the LDC.
- Technical provision reformatting: Title 21 (Flood Plain and Erosion Hazard Management) and Title 25 (Stormwater Management) of the LDC are not expected to be the focus of the comprehensive rewrite process and make more sense being brought forward in advance. Like the administrative clean up provisions, Staff proposes to bring these sections in conformance to the Town Code format, insert the reformatted provisions into Title 17 (Land Development) of the Town Code and remove them entirely out the LDC.

Any of these revised sections of the LDC could be subject to further revisions during the comprehensive rewrite process, mostly to conform to the changes recommended by the consultant.

This phase of the administrative clean-up of LDC Title 8 (General Development Regulations) excludes any modifications to the residential or commercial design standards. The design standards and the LDC titles not addressed by the administrative clean-up and technical provision reformatting process are anticipated to be addressed in later hearings. Specifically, later hearings will cover modifications to the residential or commercial design standards, all of Title 5 (Zoning) other than Sections 05.04 and 05.05, Title 16 (Signs), Title 17 (Environmental Resource Preservation, Native Plant Protection, Landscape), Title 19 (Grading), Title 20 (Cultural Resources), Title 22 (Off-Street Parking and Loading), Title 23 (Wireless Communication Facilities), and Title 24 (Overlay District Regulations). Title 18, where the Outdoor Lighting Code previously resided, is blank and will not be addressed.

The following materials associated with this phase of the administrative clean-up and technical provision reformatting are being provided as part of this agenda packet:

- Memo to the Council detailing the revisions and including a derivation table and a table of deleted sections (13 pages)
- Draft adopting ordinance (2 pages)
- Draft resolution making the proposed changes a public record (2 pages, excluding Exhibit

A, the changes themselves)
- Exhibit A to the draft resolution: Draft of the proposed finished product -- the reformatted sections moved to Town Code Title 16 (Land Development) (123 pages)

In addition to the items in the agenda packet, two redline comparisons are available for viewing online. Due to their size (they total over 300 pages), they are not included with the packet itself.

- Redline draft comparing the existing LDC language (with the order of sections revised to the order of the reformat) to the reformatted provisions (145 pages), available for viewing at: http://tmwc01.maranaegov.com/LDC-Section-Comparison.pdf
- Redline draft comparing the existing LDC, in its existing order, to the reformatted provisions (192 pages), available for viewing at: http://tmwc01.maranaegov.com/LDC-Straight-Comparison.pdf

Staff Recommendation:

Staff recommends adoption of Ordinance 2015.021 and Resolution 2015-134, adopting the comprehensive revisions and reformatting of Titles 1 through 4, Sections 05.04 and 05.05 of Title 5, Titles 6 and 7, all of Title 8 except Sections 08.06 and 08.07, and Titles 9 through 15, 21, & 25 of Land Development Code into Title 17 of the Town Code; and making them a public record.

Suggested Motion:

I move to adopt Ordinance 2015.021 and Resolution 2015-134, adopting the comprehensive revisions and reformatting of Titles 1 through 4, Sections 05.04 and 05.05 of Title 5, Titles 6 and 7, all of Title 8 except Sections 08.06 and 08.07, and Titles 9 through 15, 21, & 25 of Land Development Code into Title 17 of the Town Code; and making them a public record.

Attachments

Explanatory Memo
Ordinance 2015.021
Resolution No. 2015-134
Exhibit A to Resolution

MARANA
LEGAL DEPARTMENT

INTEROFFICE MEMORANDUM

TO: Honorable Mayor and Council, Town of Marana

FROM: Frank Cassidy, Marana Town Attorney

SUBJECT: Marana Land Development Code (LDC) Administrative and Technical Provision Clean-Up and Reformat

DATE: December 1, 2015

CC: Ryan Mahoney, Marana Planning Director
Keith Brann, Marana Town Engineer

This agenda item makes proposed comprehensive revisions to LDC Title 1 (Title, Intent, and Purpose), Title 2 (Administration), Title 3 (Definitions), Title 4 (Planning), Title 6 (Subdivisions), Title 7 (Large Scale Developments), Title 8 (General Development Regulations), Title 9 (Administration and Enforcement), Title 10 (Procedures), Title 11 (Prohibition of Illegal and Nuisance Uses), Title 12 (Conflict of Interest), Title 13 (Penalty), Title 14 (Severability), Title 15 (Repeal of Other Ordinances and Effective Date), Title 1 (Flood Plain and Erosion Hazard Management Code), and Title 25 (Stormwater Management).

This agenda item also makes proposed revisions to administrative provisions from LDC Title 5 (Zoning)—specifically, sections 5.04 (Nonconforming Structures and Land Uses) and 5.05 (Relationships to Streets, Other Structures, and Other Property) and all of their subsections except LDC Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C), which remains unchanged.

These revisions propose to eliminate redundant, unnecessary, and out-of-date provisions and procedures; conform the language to the standard Marana Town Code numbering and stylistic conventions; consolidate duplicative language and provisions; and move the provisions from the separate LDC into Title 17 (Land Development) of the Marana Town Code.

As discussed at the September 15 Council study session, the Town is preparing to procure the services of a consulting planning team to provide comprehensive revisions to the LDC, including the provisions addressed by these revisions. Town staff believes that the outside consultants will have a more representative perspective of the Town's current procedures and policies if this clean-up occurs first.

Three large documents accompany this agenda item:

- A "clean" version of the revised and reformatted LDC Titles as they are proposed to appear in Title 17 of the Marana Town Code. This document is Exhibit A to the resolution making the changes a matter of public record.
- A redline comparison of the reformatted LDC to the corresponding provisions of the existing text. To create this redline, existing LDC sections were placed into a new, unformatted document in the same order as the corresponding reformatted LDC text, to give the reader a true section-by-section comparison of the revisions.
- A redline comparison of the reformatted LDC to the existing LDC sections in their existing order. This redline is much longer and appears to show many more changes than the other redline version. The two main reasons for this are (1) this version includes all of the deleted sections, and (2) almost all of the retained existing LDC sections have been moved to different locations in the reformatted LDC.

The following table identifies where current LDC provisions and chapters may be found in the revised and reformatted LDC:

CURRENT LDC NUMBER AND TITLE	LOCATION IN THE REFORMATTED LDC
TITLE 1 TITLE, INTENT, AND PURPOSE	CHAPTER 17-1 TITLE, INTENT, PURPOSE, AND DEFINITIONS
01.01 Title	17-1-1 Title
01.02 Intent and Purpose	17-1-2 Intent and purpose
01.03 Interpretation	17-1-3 Interpretation
01.04 Reference to National or Uniform Codes	Deleted
TITLE 2 ADMINISTRATION	CHAPTER 17-2 ADMINISTRATIVE BODIES AND OFFICERS
02.01 Administration—In General	Deleted
02.01.01 Marana Mayor and Council	Deleted
02.01.02 Adoption of a General Plan	Deleted
02.01.03 Adoption of Zoning, Development, and Building Regulations	Deleted
02.01.04 Approval of Subdivisions and Large Scale Development Plans	Deleted
02.01.05 Set Fees and Manner of Charges	Deleted
02.01.06 Relation to Other Entities	Deleted
02.01.07 Amendments	Deleted
02.02 Planning Commission	17-2-1 Planning commission
02.03 Board of Adjustment	17-2-2 Board of adjustment
02.04 Planning Administrator	17-2-3 Planning director
02.04.01 [Planning Administrator] Powers and Duties	Deleted

CURRENT LDC NUMBER AND TITLE	LOCATION IN THE REFORMATTED LDC
02.04.02 [Planning Administrator] Relation to Other Entities	Deleted
02.05 Building Official/Inspector (including all subsections)	Deleted
02.06 Town Clerk (including all subsections)	Deleted
02.07 Town Engineer (including all subsections)	Deleted
02.08 Cultural Resources Preservation Board	17-2-4 Cultural resources preservation board
TITLE 3 DEFINITIONS	Deleted
03.00 General Usage	17-1-4 Definitions
03.01 Definitions "A" thru 03.26 Definitions "Z"	17-1-4 Definitions
03.08 "H" (Home occupation definition, substantive provisions)	17-6-4 Home occupations
03.08 Definitions "H" Home Occupation"	17-6-4 (substantive restrictions only)
TITLE 4 PLANNING	Deleted
04.01 Comprehensive Development Plan (including all subsections)	Deleted
04.02 Area Development Plans	Deleted
04.03 Subject Development Plans	Deleted
04.04 Annual Budget Planning	Deleted
04.05 Development Agreements (including all subsections)	Deleted
04.06 Reimbursement for Public Improvements (including all subsections)	Deleted
05.04 Nonconforming Structures and Land Uses	17-6-1 Nonconforming structures and land uses
05.05 Relationships to Streets, Other Structures, and Other Property	17-6-2 Relationships to streets, other structures, and other property
05.05.01 Clear View of Intersecting Streets	17-6-2.A [Clear view of intersecting streets]
05.05.02 Effect of Street Plan	17-6-2.B [Effect of street plan]
05.05.03 Animal-Keeping Structures and Fencing	Deleted
05.05.04 Drainage of Surface Waters	Deleted
05.05.05 Pollution Prohibited	17-6-3 Sewage sludge restriction (sewage sludge provision only; the balance has been deleted)
05.05.06 Off-Street Parking	Deleted
05.05.07 Motor Vehicle Access	Deleted
TITLE 6 SUBDIVISIONS	CHAPTER 17-5 SUBDIVISIONS
06.01 Purpose and Intent	17-5-1 Purpose and intent
06.02 General Applicability	17-5-2 Procedure
06.02.01 Pre-Application Conference	17-5-2.B [Pre-application conference]
06.02.02 Preliminary Plat	17-5-2.C [Preliminary plat]
06.02.03 Final Plat	17-5-2.D [Final plat]
06.03 Subdivision Requirements	17-5-3 Subdivision requirements
06.03.01 Design and Documentation Requirements	17-5-3.A [Design and documentation requirements]
06.03.02 Improvement Requirements	17-5-3.B [Improvement requirements]
06.03.03 General Requirements	17-5-3.C [General requirements]

CURRENT LDC NUMBER AND TITLE	LOCATION IN THE REFORMATTED LDC
06.04 Design Standards	17-5-4 Design standards
06.04.01 General	17-5-4.A [General]
06.04.02 Building and Site Design	17-5-4.B [Building and site design]
06.04.03 Street Location and Arrangement	17-5-4.C [Street location and arrangement]
06.05 Conservation Subdivision Standards (Reserved)	Deleted
06.06 Performance Guarantee	17-5-5 Performance guarantee
06.07 Minor Land Division	17-5-6 Minor land division
06.07.01 In General	17-5-6.A [In general]
06.07.02 Pre-Application Conference	17-5-6.B [Pre-application conference]
06.07.03 Minor Land Division Design Standards and Requirements	17-5-6.C [Minor land division design standards and requirements]
06.07.04 Minimum Required Minor Land Division Improvements	17-5-6.D [Minimum required minor land division improvements]
06.07.05 Minor Land Division Applications	17-5-6.E [Minor land division applications]
06.07.06 Engineering Plans for Minor Land Division	17-5-6.F [Engineering plans for minor land division]
06.07.07 Assurance for the Construction of Minor Land Division Improvements	17-5-6.G [Assurance for the construction of minor land division improvements]
06.07.08 Minor Land Division Appeal	17-5-6.H [Minor land division appeal]
06.08 Modifications	Deleted (heading only)
06.08.01 Modifications to Requirements of Title	17-5-7 Modifications to requirements of chapter
06.09 Violations	Deleted (heading only)
06.09.01 Violations and Penalties	17-5-8 Violations and penalties
TITLE 7 LARGE SCALE DEVELOPMENTS	Deleted
TITLE 8 GENERAL DEVELOPMENT REGULATIONS (except residential and commercial design standards)	CHAPTER 17-6 GENERAL DEVELOPMENT REGULATIONS
08.01. Building Permits Required, Procedure Therefore [sic]	Deleted
08.03 Adoption of the Uniform Building, Plumbing, and Electrical Codes, with Exceptions	Deleted
08.03.01 Height of buildings and structures	17-6-4 Height of buildings and structures
08.03.02 Clear view of intersecting streets	17-6-5 Clear view of intersecting streets
08.03.03 Drainage of lots	17-6-2.C [Drainage]
08.03.04 Location of gasoline pumps	17-6-7 Location of gasoline pumps
08.03.06 Motor vehicle access	17-6-8 Motor vehicle access
08.03.07 Mobile homes	Deleted
08.03.08 Location of structures to house animals	17-6-12.A [Location of structures to house animals]
08.03.09 Waste disposal	Deleted
08.03.10 Lot numbers and building addresses	Deleted
08.03.11 Designation of Non-public Facilities	Deleted
08.03.12 Irrigation Lines and Ditches	17-6-9 Irrigation lines and ditches
08.03.13 Specifications for the installation of fiber optics	17-6-11 Specifications for the installation of fiber optics
08.04 Animal Keeping and Related Structures	17-6-12 Animal keeping and related structures
08.04.01 General Maintenance	17-6-12.B [General maintenance]

CURRENT LDC NUMBER AND TITLE	LOCATION IN THE REFORMATTED LDC
08.04.02 Development Standards	17-6-12.C [Development standards]
08.04.03 Enforcement	Deleted
08.04.04 Severability	Deleted
08.04.05 Administrative relief	Deleted
08.05 Building Height Increase	17-6-13 Building height increase
08.08 Medical Marijuana Dispensary	17-6-14 Medical marijuana dispensary
TITLE 9 ADMINISTRATION AND ENFORCEMENT	CHAPTER 17-3 ADMINISTRATION AND ENFORCEMENT
09.01 Permits Required 09.01.01 Building Permit Requirements 09.01.02 Certificate of Zoning Compliance 09.01.03 Certificate of Occupancy	Deleted
09.01.04 Temporary Use Permit	17-3-3 Temporary use permit
09.02 Compliance with Code	17-3-4 Compliance with code
09.03 Responsibility for Violation	17-3-5 Responsibility for violation
09.04 Responsibility for Enforcement	17-3-6 Responsibility for enforcement
09.05 Liability of the Town	Deleted
09.06 Appeal Procedure	Deleted
09.07 Permits on Lots Not Served by Public Facilities	Deleted
09.08 Annexation (including all subsections)	Deleted
TITLE 10 PROCEDURES	Deleted (title only)
10.01 Amendment Procedure	17-3-1 Amendment procedure
10.02 Public Hearing Requirement	Deleted
10.03 Recommendation to the Town Council	Deleted
10.04 Protest 10.04.01 Specific Plan Protest	Deleted
10.05 Zoning Amendment	Deleted
10.10 Conditional Use Permits	17-3-2 Conditional use permits
TITLE 11 PROHIBITION OF ILLEGAL AND NUISANCE USES	17-6-6 (nuisance uses only; the balance has been deleted)
11.01 Illegal Uses Prohibited	Deleted
11.02 Nuisance Uses Prohibited	17-6-10 Nuisance uses prohibited
11.03 Similar Uses.	17-6-10.E [Similar uses prohibited]
11.04 Violation	Deleted
TITLE 12 CONFLICT OF INTEREST	Deleted
TITLE 13 PENALTY	Deleted
TITLE 14 SEVERABILITY	Deleted
TITLE 15 REPEAL OF OTHER ORDINANCES AND EFFECTIVE DATE	Deleted
TITLE 21 FLOOD PLAIN AND EROSION HAZARD MANAGEMENT CODE	CHAPTER 17-15 FLOODPLAIN AND EROSION HAZARD MANAGEMENT CODE
21.01 GENERAL INFORMATION	17-15-1 General information
21.01.01 STATUTORY AUTHORIZATION	17-15-1.A [Statutory authorization]
21.01.02 FINDINGS OF FACT	17-15-1.B [Findings of fact]
21.01.03 STATEMENT OF PURPOSE	17-15-1.C [Statement of purpose]
21.01.04 METHODS OF REDUCING FLOOD LOSSES	17-15-1.D [Methods of reducing flood losses]

CURRENT LDC NUMBER AND TITLE	LOCATION IN THE REFORMATTED LDC
21.02 ABBREVIATIONS AND DEFINITIONS	17-15-2 Abbreviations and definitions
21.02.01 ABBREVIATIONS	17-15-2.A [Abbreviations]
21.02.02 DEFINITIONS	17-15-2.B [Definitions]
21.03 GENERAL PROVISIONS	17-15-3 General provisions
21.03.01 LANDS TO WHICH THIS TITLE APPLIES	17-15-3.A [Lands to which this title applies]
21.03.02 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD	17-15-3.B [Basis for establishing the areas of special flood hazard]
21.03.03 COMPLIANCE	17-15-3.C [Compliance]
21.03.04 ABROGATION AND GREATER RESTRICTIONS	17-15-3.D [Abrogation and greater restrictions]
21.03.05 INTERPRETATION	17-15-3.E [Interpretation]
21.03.06 DISCLAIMER OF LIABILITY	17-15-3.F [Disclaimer of liability]
21.03.07 STATUTORY EXEMPTIONS	17-15-4 Statutory exemptions
21.03.08 UNLAWFUL ACTS	17-15-5 Unlawful acts
21.03.09 DECLARATION OF PUBLIC NUISANCE	17-15-6 Declaration of public nuisance
21.03.10 ABATEMENT OF VIOLATIONS	17-15-7 Abatement of violations
21.03.11 SEVERABILITY	17-15-9 Severability
21.04 ADMINISTRATION	17-15-9 Administration
21.05 PROVISIONS FOR FLOOD HAZARD REDUCTION	17-15-10 Provisions for flood hazard reduction
21.05.01 STANDARDS OF CONSTRUCTION IN FLOODPRONE AREAS	17-15-10.B [Standards of construction in flood-prone areas]
21.05.02 STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT	17-15-10.C [Standards for storage of materials and equipment]
21.05.03 STANDARDS FOR UTILITIES	17-15-10.D [Standards for utilities]
21.05.04 STANDARDS FOR SUBDIVISIONS AND COMMERCIAL DEVELOPMENTS	17-15-10.E [Standards for subdivisions and commercial developments]
21.05.05 STANDARDS FOR MANUFACTURED HOMES AND MANUFACTURED HOME PARKS OR SUBDIVISIONS	17-15-10.F [Standards for manufactured homes and manufactured home parks or subdivisions]
21.05.06 STANDARDS FOR RECREATIONAL VEHICLES	17-15-10.G [Standards for recreational vehicles]
21.05.07 STANDARDS FOR CRITICAL FACILITIES	17-15-10.H [Standards for critical facilities]
21.05.08 STANDARDS FOR EXCAVATIONS, INCLUDING SAND AND GRAVEL OPERATIONS	17-15-10.I [Standards for excavations, including sand and gravel operations]
21.05.09 FLOODWAY REQUIREMENTS	17-15-10.J [Floodway requirements]
21.05.10 EROSION HAZARD SETBACK REQUIREMENTS	17-15-10.K [Erosion hazard setback requirements]
21.05.11 DETENTION AND RETENTION REQUIREMENTS	17-15-10.L [Detention and retention requirements]
21.05.12 ACCESS REQUIREMENTS	17-15-10.M [Access requirements]
21.06 FLOODPLAIN VARIANCE PROCEDURE	17-15-11 Floodplain variance procedure
21.06.01 CONDITIONS FOR FLOODPLAIN VARIANCES	17-15-11.C [Conditions for floodplain variances]
21.06.01 NATURE OF FLOODPLAIN VARIANCES	17-15-11.A [Nature of floodplain variances]
21.06.02 APPEAL BOARD	17-15-11.B [Appeal board]

CURRENT LDC NUMBER AND TITLE	LOCATION IN THE REFORMATTED LDC
APPENDIX 1 – TABLE OF REGULATORY PEAK DISCHARGES	17-15-12 Appendix 1 – Table of regulatory peak discharges
TITLE 25 STORMWATER MANAGEMENT	CHAPTER 17-16 STORMWATER MANAGEMENT
25.01 GENERAL PROVISIONS	17-16-1 General provisions
25.01.01 Purpose	17-16-1.A [Purpose]
25.01.02 Definitions	17-16-1.B [Definitions]
25.01.03 Applicability	17-16-1.C [Applicability]
25.01.04. Delegation of Authority for Administration and Enforcement	17-16-1.D [Delegation of authority for administration and enforcement]
25.01.05 Regulatory Consistency	17-16-1.E [Regulatory consistency]
25.01.06 General	17-16-1.F [General]
25.01.07 Severability	17-16-1.G [Severability]
25.02 PROHIBITIONS AND CONTROLS TO REDUCE THE DISCHARGE OF POLLUTANTS IN STORMWATER	17-16-2 Prohibitions and controls to reduce the discharge of pollutants in Stormwater
25.02.01 General Requirements	17-16-2.A [General requirements]
25.02.02 Prohibition of Non-Stormwater Discharge to the Municipal Storm Sewer System; Exemptions	17-16-2.B [Prohibition of non-stormwater discharge to the municipal storm sewer system; exemptions]
25.02.03 Operating Facilities or Activities	17-16-2.C [Operating facilities or activities]
25.02.04 Construction Sites	17-16-2.D [Construction sites]
25.02.05 Stormwater Pollution Prevention Plans (SWPPP)	17-16-2.E [Stormwater pollution prevention plans (SWPPP)]
25.02.06 Maintenance of Stormwater Facilities	17-16-2.F [Maintenance of Stormwater facilities]
25.02.07 Cleanup and Notification Requirements	17-16-2.G [Cleanup and notification requirements]
25.03 COMPLIANCE MONITORING	17-16-3 Compliance monitoring
25.03.01 Inspections	17-16-3.A [Inspections]
25.03.02 Enforcement and Penalties	17-16-3.B [Enforcement and penalties]

The following table lists sections of the current LDC that have simply been deleted, and are not found in either the redline comparison or the "clean" revised and reformatted LDC, and the reasons for their deletion:

SECTION NUMBER AND TITLE	REASONS FOR DELETION
01.04 Reference to National or Uniform Codes	The building code was moved to Town Code Title 7, but this provision was inadvertently retained in the LDC. The LDC administrative clean-up will make the LDC part of the Town Code, so deletion of this section removes duplication with Title 7
02.01 Administration—In General	This section has no substantive content
02.01.01 Marana Mayor and Council	The role of the Town Council in zoning matters is set forth in the Arizona Revised Statutes. This section oversimplifies the Town Council's role.

SECTION NUMBER AND TITLE	REASONS FOR DELETION
02.01.02 Adoption of a General Plan	The general plan adoption procedures and implications are fully prescribed by and described in state law. In any event, the general plan is a planning document that does not have the force of law attributed to it in this section.
02.01.03 Adoption of Zoning, Development, and Building Regulations	The Town's zoning authority is set forth in the Arizona Revised Statutes. This section provides no substantive benefit, and by having wording different from state law could be used as a basis for a party to challenge regulations the town adopts that are inconsistent with this section. Building codes are now addressed in Title 7 of the Marana Town Code.
02.01.04 Approval of Subdivisions and Large Scale Development Plans	The Town's authority over subdivisions is set forth in the Arizona Revised Statutes, and the Town's procedural requirements for subdivisions are found in a separate title of the current LDC (Title 6). The Town no longer uses the "large scale development plans" procedures. This section provides no substantive purpose.
02.01.05 Set Fees and Manner of Charges	By law, the Town Council sets all Town fees and charges. In recent years, all Town fees have been incorporated into the comprehensive fee schedule. Although there is nothing inaccurate about this section, it provides no substantive purpose and could create a conflict with general practice if the Council ever chooses to set fees and charges by ordinance.
02.01.06 Relation to Other Entities	This section is inconsistent with state law and normal Town practice, which provide for the Town Council to consider recommendations by the Planning Commission but do not require the consideration of other officials' recommendations.
02.01.07 Amendments	This section is an oversimplification and misstatement of the adoption process for regulations found in the LDC. The LDC includes regulations adopted under the Town's zoning, subdivision, floodplain, nuisance, and general municipal authority. The procedure applicable to a particular amendment depends on various factors and enabling laws.
02.04.01 [Planning Administrator] Powers and Duties	The duties of the planning director (referred to as the "planning administrator" in the current LDC and as the "zoning administrator" in state statutes) are prescribed by state law, and change from time to time. This section includes various duties that have long ago been abandoned, including advising the Town Clerk concerning building permits and processing large scale developments. Although much of the language accurately describes what the planning director does, spelling those activities out in the LDC serves no useful purpose and could create conflicts if normal Town practice changes over time.
02.04.02 [Planning Administrator] Relation to Other Entities	This section restates the obvious.
02.05 Building Official/Inspector (including all subsections)	Building codes is now addressed in Marana Town Code Title 7. This section is an unnecessary duplication of Title 7 provisions.

SECTION NUMBER AND TITLE	REASONS FOR DELETION
02.06 Town Clerk (including all subsections)	The duties of the Town Clerk are addressed in § 3-2-4 of the Marana Town Code. This section is an unnecessary duplication of that section.
02.07 Town Engineer (including all subsections)	The duties of the Town Engineer are addressed in § 3-2-5 of the Marana Town Code. This section is an unnecessary duplication of that section.
Title 3 Definitions	The definitions themselves are now found in Chapter 17-1, but this title has been deleted
Title 4 Planning	All of the sections of this title are deleted, making it unnecessary
04.01 Comprehensive Development Plan 04.01.01 Elements of the Plan 04.01.02 Time Span to be Covered by the Plan 04.01.03 Frequency of Revision	These sections address the adoption of a "Comprehensive Development Plan for the Town of Marana." These provisions are now superseded by the Growing Smarter "general plan" required by A.R.S. § 9-461.05, -461.06, and -461.07. These current LDC provisions in many cases conflict or are inconsistent with the Growing Smarter requirements, including the state-mandated plan elements, the time span covered by the plan, and frequency and procedure for revision.
04.01.05 Conformance of Public Lands and Structures to the Plan	This section corresponds to A.R.S. § 9-461.07 (C) but contains language, procedures, and timeframes different from in the statute. To avoid potential confusion and conflicts, staff recommends deletion of this current LDC provision.
04.02 Area Development Plans	There is nothing under the Growing Smarter statutes that would prohibit the division of the general plan into smaller geographic area plans. But the Town's current general plan covers the entire town limits and beyond, and the Town's currently established practice is not to adopt area plans (other than specific plans, which are addressed elsewhere). Staff recommends deletion of this unnecessary current LDC provision.
04.03 Subject Development Plans	The Town does not use "subject development plans" or "specific subject plans," which are described in the current LDC as plans that "involve detailed planning for any one or more of the elements contained in the Comprehensive Plan" which "must be in conformance with the Comprehensive Development Plan but may be in greater detail and may be concerned with only a portion of the Town." Staff recommends deletion of this unnecessary current LDC provision.
04.04 Annual Budget Planning	This current LDC provision describes a budget planning process and schedule that is not currently used by the Town. In any event, this level of internal administrative practice is not recommended for inclusion in the reformatted LDC administrative provisions.

SECTION NUMBER AND TITLE	REASONS FOR DELETION
04.05 Development Agreements 04.05.01 Purpose and Intent 04.05.02 Authorization 04.05.03 Procedure for Development Agreement	These provisions call for the adoption of development agreements through a legislative hearing process, identical in substance to the process used to adopt a rezoning or specific plan. These sections were originally adopted in 1995 by Ordinance 95.02. At that time, zoning practitioners were concerned that development agreements might be used to grant zoning entitlements. To protect against zoning entitlements being granted without compliance with the statutorily-mandated notice and hearing requirements for zoning actions, these current LDC sections used the zoning adoption procedure. Standard Town practice is to adopt zoning entitlements by rezoning or specific plan, and to bring forward a development agreement consistent with the rezoning or development plan. So the rigorous procedures of these sections are unnecessary. They also conflict with the general requirements for development agreements under A.R.S. § 9-500.05, and create confusion each time a development agreement is processed in the Town.
04.05.04 [Development Agreement] Fees	All fees are now addressed in the Town's comprehensive fee schedule. The provision of this section of the current LDC that calls for payment of additional funds as necessary to cover "actual administrative costs" appears to give more flexibility for fees than allowed by current state law (A.R.S. §§ 9-463.05 and 9-499.15).
04.05.05 Coordination of Development Agreement Application with Other Discretionary Approvals	This section provides for the simultaneous consideration of a development agreement with its associated rezoning, specific plan, conditional use permit, or other development process. Although this is the Town's normal current practice, this provision is essentially an administrative rule that adds no substantive benefit or clarification to the process.
04.05.06 [Effect of a Development Agreement on] Existing and Subsequently Adopted Town Ordinances, Policies, Rules and Regulations	The main purpose for a development agreement is to define the extent to which zoning entitlements are affected by later-adopted requirements. This current LDC section establishes a rule that applies "unless otherwise provided by the development agreement…." All development agreements adopted to date have addressed this subject, so this provision has had no practical effect. In any event, this provision is a restatement of the general law of zoning, and is unnecessary.
04.05.07 [Development Agreements;] Subsequently Adopted State and Federal Laws	This section requires development agreements to be modified or suspended as necessary to comply with state and federal laws. This is a restatement of the general law of development agreements, and is unnecessary. In any event, the Town's standard development agreement template covers this issue.
04.05.08 Periodic Review, Termination or Modification [of Development Agreements]	This section requires the Town to review development agreements every 12 months, requires the owner of property subject to a development agreement to "demonstrate good faith compliance with the terms of the development agreement" at each review, and allows the Town Council to terminate or modify the agreement unilaterally if it determines non-compliance. These procedures are inconsistent with current practice and state law.

SECTION NUMBER AND TITLE	REASONS FOR DELETION
04.05.09 Amendment or Cancellation of [Development] Agreement	This section is an unnecessary restatement of a basic tenet of contract law—that an agreement may be modified by mutual consent of the parties.
04.05.10 Enforcement [of Development Agreement]	This section is another unnecessary restatement of a basic tenet of contract law—that any party to the agreement may enforce it.
04.06 Reimbursement for Public Improvements (including all subsections)	These sections of the current LDC were adopted as an alternative to the Town's adoption of development impact fees. They purported to allow the Town and a developer to enter into an arrangement which would allow the developer to be reimbursed by other benefitting property owners for oversizing of public infrastructure. Current state law prohibits the Town from imposing any development fee on a benefited property owner for public infrastructure without first complying with the development impact fee statute, A.R.S. § 9-463.05. Any developer reimbursement must now be consistent with that statute. These sections of the current LDC, which are inconsistent with the statute and are not in use by the Town, should be deleted.
05.05.03 Animal-Keeping Structures and Fencing	This section simply cross-references the development standards of Section 08.04 of the current LDC.
05.05.03 Animal-Keeping Structures and Fencing	This provision simply cross-references the requirements of LDC section 08.04 (now found at 17-6-8)
05.05.04 Drainage of Surface Waters	This section prohibits drainage from one lot to another. This is an oversimplification of the law, which generally allows natural surface flows to continue in their natural state. To the extent it is intended to address the general runoff of water from one lot to another, it is already addressed in, and prohibited by Town Code section 14-9-3, relating to utilities.
05.05.04 Drainage of Surface Waters	This is an almost verbatim restatement of LDC subsection 08.03.03, now found at 17-6-2.C
05.05.05 Pollution Prohibited	With the exception of the sewage sludge provision, which has been retained, the balance of this provision was simply a restatement of state and federal law
05.05.06 Off-Street Parking	This section allows off-street parking, vehicle access, and circulation requirements to be added as a condition of any development approval. It is an oversimplified restatement of the more specific authority given under Title 22 (Off-street parking and loading) of the current LDC.
05.05.06 Off-Street Parking	This generic off-street parking provision should have been deleted when the more comprehensive LDC Title 22 (Off-Street Parking and Loading) was adopted in September 1995
05.05.07 Motor Vehicle Access	This section requires that "all commercial, industrial, and quasi-public buildings and structures must be provided access from a public street for motor vehicle access as a condition of zoning compliance." This is an oversimplified restatement of a requirement of the building code, now adopted by Town Code Title 7.
05.05.07 Motor Vehicle Access	This generic requirement for all structures to have access to a street is covered in Town Code Title 7 (Building)

SECTION NUMBER AND TITLE	REASONS FOR DELETION
07 Title 7 Large Scale Developments (including all subsections)	This title sets forth special procedures for so-called "large scale developments," which include "planned unit developments, condominium projects, mobile home parks, recreational vehicle parks, planned shopping centers, planned industrial parks, group dwellings, or apartment buildings or complexes located on a lot or parcel of land larger than 2.5 acres." The procedures call for large scale developments to be approved through the same process as a subdivision, with financial assurances and other special requirements. The Town's standard development plan approval process now makes the special large scale developments requirements unnecessary and burdensome.
08.01. Building Permits Required, Procedure Therefore [sic]	Building permit requirements and procedures are now set forth in Town Code Title 7 (Building)
08.03 Adoption of the Uniform Building, Plumbing, and Electrical Codes, with Exceptions	This was a section title with no text.
08.03.07 Mobile homes	This provision, setting standards for mobile homes and mobile home skirting, is addressed by Town Code Title 7 (Building) and state law
08.03.09 Waste disposal	This provision, requiring connection to sewer or approved septic, is an unnecessary restatement of state law
08.03.10 Lot numbers and building addresses	This provision requires addresses to be assigned to all buildings, and is now covered by administrative procedure and (to the extent necessary) by Town Code Title 7 (Building)
08.03.11 Designation of Non-public Facilities	This provision requires a notation on a building permit regarding access to a non-public street or for property not served by a public sewer, and is now covered (to the extent necessary) by Town Code Title 7 (Building)
08.04.03 Enforcement	This provision is an unnecessary duplication of the general enforcement provisions applicable to the entire LDC
08.04.04 Severability	This provision is an unnecessary duplication of the standard severability provision inserted in each individual adopting ordinance, where appropriate
08.04.05 Administrative relief	This provision established an administrative relief procedure through the office of the planning director. By state law, administrative relief is available from the board of adjustment. Having both procedures is unnecessary and confusing.
09.01 Permits Required (including all subsections except 09.01.04 Temporary Use Permit)	These sections describe the building permit process, which is now found in Marana Town Code Title 7.
09.05 Liability of the Town	This section is an ill-advised attempted restatement of Arizona law concerning liability for damages resulting from the denial of a building permit or other approvals. This complex area of law changes frequently. The Town cannot limit its liability with a provision of this type.

SECTION NUMBER AND TITLE	REASONS FOR DELETION
09.06 Appeal Procedure	This section grants a right of appeal to the Planning Commission. State law provides for appeals to the Board of Adjustment. This section can either be interpreted as inconsistent with state law, or as providing an alternate right of appeal. Either way, it creates unnecessary confusion and should be deleted.
09.07 Permits on Lots Not Served by Public Facilities	This provision simply requires a building permit file to include a statement indicating that the lot in question is not on a dedicated street or is not served by sewer, as applicable. This administrative requirement creates unnecessary potential liability for the Town by being placed in the LDC.
09.08 Annexation (including all subsections)	These sections attempt to define rights and address issues that are defined and addressed in state law and in Arizona case law concerning municipal annexations. Some of the substantive provisions of these sections do not conform to state law or to the Town's standard current practice. To avoid conflicts and confusion, these sections are recommended for deletion.
10 Title 10 Procedures	The surviving sections of Title 10 can be found in Chapter 17-3 (Administration and enforcement); but the title itself has been deleted
10.02 Public Hearing Requirement	This section simply restates the provisions of A.R.S. § 9-462.04 (A)
10.03 Recommendation to the Town Council	This section restates the provisions of A.R.S. § 9-462.04 (C) and (D), except for revisions to state law since this section's 1997 adoption.
10.04 Protest 10.04.01 Specific Plan Protest	These sections are shortened restatements of A.R.S. § 9-462.04 (H)
10.05 Zoning Amendment	Paragraph A of this section paraphrases an older version of A.R.S. § 9-462.01 (E) and is now inconsistent with state law. Paragraph B of this section paraphrases the requirements of A.R.S. § 9-462.04 (J).
11.01 Illegal Uses Prohibited	This provision, which basically addresses uses that violated the previous code, is an unnecessary and somewhat cumbersome restatement of the law of legal nonconforming uses
11.04 Violation	Redundant
12 Title 12 Conflict Of Interest	This title is redundant with state law
13 Title 13 Penalty	This title is redundant with Town Code Chapter 1-8 (Penalty)
14 Title 14 Severability	This title is redundant with Town Code Chapter 1-7 (Severability of parts of the code)
15 Title 15 Repeal of Other Ordinances and Effective Date	This title is redundant with Town Code Chapter 1-6 (Effect of repeal)

MARANA ORDINANCE NO. 2015.021

RELATING TO DEVELOPMENT; ADOPTING COMPREHENSIVE REVISIONS TO AND REFORMATTING AND CONSOLIDATION OF MARANA LAND DEVELOPMENT CODE TITLE 1 (TITLE, INTENT, AND PURPOSE); TITLE 2 (ADMINISTRATION); TITLE 3 (DEFINITIONS); TITLE 4 (PLANNING); SECTION 05.04 (NONCONFORMING STRUCTURES AND LAND USES) AND ALL OF SECTION 05.05 (RELATIONSHIPS TO STREETS, OTHER STRUCTURES, AND OTHER PROPERTY) EXCEPT SUBSECTION 05.05.08 (MANUFACTURED HOMES IN ZONE A, B, & C); TITLE 6 (SUBDIVISIONS); TITLE 7 (LARGE SCALE DEVELOPMENTS); ALL OF TITLE 8 (GENERAL DEVELOPMENT REGULATIONS) EXCEPT SECTION 08.06 (RESIDENTIAL DESIGN) AND SECTION 08.07 (COMMERCIAL DESIGN STANDARDS); TITLE 9 (ADMINISTRATION AND ENFORCEMENT); TITLE 10 (PROCEDURES); TITLE 11 (PROHIBITION OF ILLEGAL AND NUISANCE USES); TITLE 12 (CONFLICT OF INTEREST); TITLE 13 (PENALTY); TITLE 14 (SEVERABILITY); TITLE 15 (REPEAL OF OTHER ORDINANCES AND EFFECTIVE DATE); TITLE 21 (FLOOD PLAIN AND EROSION HAZARD MANAGEMENT CODE); AND TITLE 25 (STORMWATER MANAGEMENT) INTO TITLE 17 (LAND DEVELOPMENT) OF THE MARANA TOWN CODE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

SECTION 1. The comprehensive revisions to and reformatting and consolidation of Marana Land Development Code Title 1 (Title, Intent, and Purpose); Title 2 (Administration); Title 3 (Definitions); Title 4 (Planning); Section 05.04 (Nonconforming Structures and Land Uses) and all of Section 05.05 (Relationships to Streets, Other Structures, and Other Property) except Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C); Title 6 (Subdivisions); Title 7 (Large Scale Developments); all of Title 8 (General Development Regulations) except Section 08.06 (Residential Design) and Section 08.07 (Commercial Design Standards); Title 9 (Administration and Enforcement); Title 10 (Procedures); Title 11 (Prohibition of Illegal and Nuisance Uses); Title 12 (Conflict of Interest); Title 13 (Penalty); Title 14 (Severability); Title 15 (Repeal of Other Ordinances and Effective Date); Title 21 (Flood Plain and Erosion Hazard Management Code); and Title 25 (Stormwater Management) into Title 17 (Land Development) of the Marana Town Code, three copies of which are on file in the office of the Town Clerk of the Town of Marana, Arizona, which were made a public record by and attached as Exhibit A to Resolution No. 2015-134 of the Town of Marana, Arizona, are hereby referred to, adopted and made a part of this ordinance as if fully set out here.

SECTION 2. The following penalty clauses are included in Marana Town Code Title 17 (Land Development) as adopted pursuant to this ordinance:

17-5-8 Violations and penalties

A. It shall be a misdemeanor to record or attempt to record a subdivision plat or minor land division map with the county recorder if such plat or map includes any land within the town and such plat or map has not been given approval by the town.

B. It shall be a misdemeanor to attempt to achieve a minor land division or to achieve a minor land division or to attempt to establish a subdivision or to establish a subdivision of any land within the town without first having obtained the approval of the town as provided for by this chapter.

17-15-5 Unlawful acts

A. It is unlawful for a person to engage in any development or to divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property without securing the written authorization required by A.R.S. § 48-3613. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.

B. Any person violating the provisions of this chapter shall be guilty of a class 2 misdemeanor. Each day that a violation continues shall be considered a separate offense.

17-16-3 Compliance monitoring

A. Inspections [no penalty clauses]

B. Enforcement and penalties

1. Charges or penalties levied pursuant to this chapter shall be collected by the department of public works and utilized for public education and outreach in compliance with the town's MS4 Permit. The town engineer shall make and enforce economic and efficient management and protection of the town's storm sewer system.

2. Operator and/or owner of record. The operator performing activities and/or owner of record of the property upon which a violation of this chapter occurs shall be presumed to be a person having lawful control over the activity or premises unless it is demonstrated and documented that another person has knowingly and in good faith accepted responsibility for the activity at issue. If more than one person is identified as the owner, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or premises.

3. Notice to correct. The town may issue a written notice to correct to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice to correct may result in a notice of violation and/or stop work order as described in subsections 4 and 6 of this section.

4. Notice of violation. The town may issue a written notice of violation to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice of violation shall be a separate violation for each day beyond the thirtieth calendar day following the notice of violation. Nothing in this section shall limit the authority of the town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. In appropriate situations the town may notify the person orally either in person or by telephone prior to written notification.

5. Consent orders. The town may enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements, or other similar documents establishing an agreement with any person responsible for noncompliance. Such documents will include specific action to be taken by the person to correct the noncompliance within a time period specified by the document, including an identification and description of the best management practices and measures to utilize in implementing the order. Such documents shall have the same force and effect as any other orders issued under this chapter and shall be judicially enforceable.

6. Stop work order. For projects under construction in the town, if the town finds that a person has violated, or continues to violate, any provision of this chapter or any related laws or regulations, or that the person's past violations are likely to recur, the town may issue a stop work order to the person directing them to cease and desist all such violations and direct the person to immediately comply with all requirements; and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the person. A person's failure to comply with an order issued pursuant to this chapter shall constitute a violation of this chapter.

7. Civil penalties. In addition to any other enforcement authority contained in this chapter, the town may issue a civil citation to any person who has violated, or continues to violate, any provision of this chapter or any related laws or regulations. A person who violates any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition shall be civilly liable to the town for a sum not to exceed $2,500 per day for each violation.

8. Criminal penalties. A person who willfully or negligently violates any provision of this chapter, or any related laws or regulations shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $2,500 per day for each violation and/or by imprisonment for a period not to exceed six months.

9. Criminal prosecution. Some intentional violations may constitute criminal violations of federal, state, and town law, and that under such circumstances, the town may seek the assistance of the EPA, the state, or

the town prosecutor to commence civil and/or criminal action against any person who violates any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition.

10. The town may withhold the issuance of permits including but not limited to building permits, native plant permits and grading permits, for the development or improvement on the parcel or any contiguous parcel of land under the ownership of a person or persons in violation of any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition.

11. Liability for costs. The town may assess liability for costs to any person in violation of this chapter for all actual costs incurred by the town in surveillance, sampling and testing, abatement, and remediation associated with a discharge. Additionally, the town may assess liability for costs to any person whose discharge resulted in a violation of the town's AZPDES stormwater permit.

SECTION 3. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. This ordinance shall become effective on January 15, 2016.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 15th day of December, 2015.

_____
Mayor Ed Honea

ATTEST:

_____
Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

MARANA RESOLUTION NO. 2015-134

RELATING TO DEVELOPMENT; DECLARING AS A PUBLIC RECORD FILED WITH THE TOWN CLERK THE AMENDMENTS ADOPTED BY ORDINANCE NO. 2015.021, COMPREHENSIVE REVISIONS TO AND REFORMATTING AND CONSOLIDATION OF MARANA LAND DEVELOPMENT CODE TITLE 1 (TITLE, INTENT, AND PURPOSE); TITLE 2 (ADMINISTRATION); TITLE 3 (DEFINITIONS); TITLE 4 (PLANNING); SECTION 05.04 (NONCONFORMING STRUCTURES AND LAND USES) AND ALL OF SECTION 05.05 (RELATIONSHIPS TO STREETS, OTHER STRUCTURES, AND OTHER PROPERTY) EXCEPT SUBSECTION 05.05.08 (MANUFACTURED HOMES IN ZONE A, B, & C); TITLE 6 (SUBDIVISIONS); TITLE 7 (LARGE SCALE DEVELOPMENTS); ALL OF TITLE 8 (GENERAL DEVELOPMENT REGULATIONS) EXCEPT SECTION 08.06 (RESIDENTIAL DESIGN) AND SECTION 08.07 (COMMERCIAL DESIGN STANDARDS); TITLE 9 (ADMINISTRATION AND ENFORCEMENT); TITLE 10 (PROCEDURES); TITLE 11 (PROHIBITION OF ILLEGAL AND NUISANCE USES); TITLE 12 (CONFLICT OF INTEREST); TITLE 13 (PENALTY); TITLE 14 (SEVERABILITY); TITLE 15 (REPEAL OF OTHER ORDINANCES AND EFFECTIVE DATE); TITLE 21 (FLOOD PLAIN AND EROSION HAZARD MANAGEMENT CODE); AND TITLE 25 (STORMWATER MANAGEMENT) INTO TITLE 17 (LAND DEVELOPMENT) OF THE MARANA TOWN CODE

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the comprehensive revisions to and reformatting and consolidation of Marana Land Development Code Title 1 (Title, Intent, and Purpose); Title 2 (Administration); Title 3 (Definitions); Title 4 (Planning); Section 05.04 (Nonconforming Structures and Land Uses) and all of Section 05.05 (Relationships to Streets, Other Structures, and Other Property) except Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C); Title 6 (Subdivisions); Title 7 (Large Scale Developments); all of Title 8 (General Development Regulations) except Section 08.06 (Residential Design) and Section 08.07 (Commercial Design Standards); Title 9 (Administration and Enforcement); Title 10 (Procedures); Title 11 (Prohibition of Illegal and Nuisance Uses); Title 12 (Conflict of Interest); Title 13 (Penalty); Title 14 (Severability); Title 15 (Repeal of Other Ordinances and Effective Date); Title 21 (Flood Plain and Erosion Hazard Management Code); and Title 25 (Stormwater Management) into Title 17 (Land Development) of the Marana Town Code, a copy of which is attached to and incorporated in this resolution as Exhibit A and three copies of which are on file in the office of the Town Clerk, are hereby declared to be a public record and ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 15th day of December, 2015.

Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Title 17
Land Development

17

TITLE 17. LAND DEVELOPMENT CODE

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TITLE 17. LAND DEVELOPMENT CODE

Title 17 was inserted into the town code by Ordinance 2014.011, which also adopted chapter 17-17 (development impact fee ordinance). The remaining chapters of Title 17 were inserted into the town code by Ordinance 2015.XXX.

CHAPTER 17-1. TITLE, INTENT, PURPOSE AND DEFINITIONS

Sections:

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17-1-1 Title

This title shall be known as the Marana land development code.

17-1-2 Intent and purpose

The intent and purpose of this title is to promote the health, safety, order, and general welfare of the present and future inhabitants of the town, and specifically to accomplish the following:

A. Encourage and facilitate orderly growth and development within the town.

B. Secure economy in municipal expenditures and facilitate adequate provision for transportation, water, sewerage, parks, schools, and other public requirements.

C. Lessen congestion in the streets, prevent the overcrowding of land, and provide adequate light and air.

D. Secure safety from fires, floods, traffic hazards, and other dangers.

E. Stabilize and improve property values.

F. Promote the development of a more attractive, wholesome, and serviceable town.

G. Create conditions favorable to prosperity, civic activities, and recreational, educational, and cultural opportunities.

17-1-3 Interpretation

In interpreting and applying this title, the provisions of this title shall be held to be the minimum requirements needed to promote the public health, safety, order, and general welfare of the present and future inhabitants of the town. This title is not intended to interfere with or abrogate or annul any easement, covenant, or other agreement between parties. However, where this title imposes a greater restriction than is required by any other provision of law or by any easement, covenant, or private agreement, the provisions of this title shall govern.

17-1-4 Definitions

A. The following definitions shall be used in this title, unless a different meaning is clearly indicated by the context or a more specific definition:

1. Abutting: Two adjoining properties having a common property line or boundary.
2. Access: The place, means, or way by which pedestrians and vehicles shall have safe and usable ingress and egress to a property.
3. Accessory building: A subordinate building or portion of a main building on the same lot or building site, incidental to that permitted in the main building, or to the land upon which the main building is located.
4. Accessory use: A use incidental or subordinate to the principal use of a lot or building and devoted exclusively to the main use of the lot or building thereon.
5. Acre: 43,560 square feet of land area.
6. Apiary: Where bees are kept for their honey, generally consisting of a number of hives.
7. Articulated: Divided into joints or segments.
8. Aviary: Large cage or building specifically designed for keeping birds.
9. Berm: An earthen mound designed to provide visual interest, screen undesirable views, decrease noise, and/or control or manage surface drainage.
10. Board of adjustment: The town board of adjustment.
11. Buffer: Open spaces, landscaped areas, fences, walls, berms, or any combination of them, used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, buildings, other nuisances, or provide privacy.
12. Buildable area: The lot area where a building can be placed after yard setbacks and easements are deducted.
13. Builder: The builder is the purchaser of a development area, or portions of a development area who will build or provide for building within their areas of ownership. The builder is responsible for implementation of those facilities within each of the development areas, and ancillary facilities within the spine infrastructure system.
14. Building: Any structure having a roof and walls built and maintained for the support, shelter, or enclosure of persons, animals, chattel, or property of any kind including an

apartment house, hotel or dwelling, single or in combination. Includes the word "structure".

15. Building height: The vertical distance between the finished floor elevation and the highest point of the building, excluding chimneys, vents and antennae, provided the finished floor elevation is no higher than two feet above any adjacent grade within four feet of the building.
16. Building, main: A building within which is conducted the principal use permitted on the lot.
17. Building mass: The three-dimensional bulk of a building—height, width, and depth.
18. Building setback: The distance a building must be set back from a specified point.
19. Building site: The ground area of a building or buildings together with all adjacent open spaces.
20. Business or commercial: The purchase, sale or other transaction involving the handling or disposition, other than that included in the term "industry" as defined in this section, of any article, substance or commodity for profit or gain.
21. Camp, farm labor: A building or complex of buildings located on an operating farm that is intended to house farm workers and/or their families on a seasonal basis.
22. Character: Those attributes, qualities, and features that make up and distinguish a development project and give such project a sense of purpose, function, definition, and uniqueness
23. Child care center: A facility providing compensated nonresidential care and supervision to more than ten children.
24. Church: A building or group of buildings used primarily as a place of communion or worship. "Church" includes convents, religious educational buildings and parish houses, but not parochial schools.
25. Colony: A controlled honey bee brood including a single queen bee, drones, and workers.
26. Commercial center: A development containing one or more retail stores, restaurants, hotels, motels, and similar businesses within a single building or multiple buildings.
27. Common area: An area of common access designed to serve two or more separate dwelling units which may or may not be under separate ownership.
28. Condominium: A form of real estate ownership as defined by Arizona law.
29. Condominium project: A project that includes a condominium.

A.R.S. § 33-1202 paragraph 10 provides: "'Condominium' means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate portions. Real estate is not a condominium unless the individual interests in the common elements are vested in the unit owners.

30. County: Pima County, Arizona, or Pinal County, Arizona, as applicable to the particular geographic area.
31. Crop, agricultural: The growing of crops in the soil in the customary manner in the open; including the processing, wholesaling, and retailing of such grown agricultural products when such activities are performed on the premises on which the crops are raised. The term does not include the raising of livestock.
32. Cul-de-sac: A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
33. Dairy farm: Area where dairy animals are kept for milking and from which a part or all of the milk is sold, offered for sale or supplied for human consumption, and includes all buildings, yards and premises occupied or used in connection with the production of milk.
34. Density: The number of dwelling units that may be constructed per a unit of measure of land area. Usually expressed using the acre as the unit of measure.
35. Designated commercial area: A lot in zone A where the only building or buildings were originally designed and constructed to accommodate business, commercial, office, industrial, or warehousing uses and not residential uses.
36. Developer: Any person, group or entity proposing or constructing a development.
37. Development code: The zoning code of the town and overlay regulations including those which might deal with floodplains, hillside or slope protection, and related regulations; subdivision regulations, sign regulations, and all other land use regulations contained within this division of the town municipal code.
38. Driveway: A private method of vehicular access contained fully within a lot.
39. Drought tolerant vegetation: Low water use plants, which after established, survive within the Sonoran desert climate with little or no supplemental watering.
40. Duplex: A residential building containing two dwelling units.
41. Dwelling: A building or portion thereof, designed and used exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, but not including hotels, boarding or lodging houses.
42. Dwelling, single family: A building designed for occupancy by one family as a residence and contains only one kitchen.

43. Dwelling, multiple-family: A residential building containing two or more dwelling units, each designed for occupancy by an individual or one family as a residence.

44. Easement: A space on a lot or parcel of land defined on a subdivision map or in a deed restriction, deed of easement, or separate document, reserved for and/or used for public utilities, ingress and egress, drainage or other special purposes.

45. Enterprise: An individual or organization engaged in a single type of business, industry, or governmental activity as classified and defined by the two-digit sector number of the most recently published north American industry classification system (NAICS) as established by the United States census bureau.

46. Enterprise density: A measure of the intensity of the enterprise on the parcel of property approved for the significant land use change; for example:

    a. The square footage of building space for retail, transient lodging, or office uses.

    b. The number of occupants for occupancy-based enterprises, such as prisons, group homes, day care, and kennels.

    c. The square footage of land area used for an industrial use.

47. Façade: Any side of a building that faces a street or other open space. The "front façade" is the front or principal face of a building.

48. Family: One or more individuals occupying a dwelling unit and living as a single housekeeping unit.

49. Feedlot: Any fenced area used commercially for the express purpose of fattening livestock for slaughter or sale.

50. Final plat: A map of all or part of a subdivision essentially conforming to an approved preliminary plat, and prepared in accordance with the provisions of the town subdivision regulations.

51. Floor area ratio (FAR): A ratio expressing the amount of square feet of floor area permitted for every square foot of land area within a site. The FAR is usually expressed as a single number.

52. Fowl: A bird of a type that is used to produce meat or eggs, including, but not limited to, chickens, ducks, turkeys, and peacocks.

53. Frontage: All property fronting on one side of a street between a street and a right-of-way, or between intersecting or intercepting streets, or to the end of a dead-end street. An intercepting street shall determine the boundary of the frontage on the side of the street that it intercepts.

54. Garage, private: An accessory building or portion of the main building, designed or used for the shelter or storage of self-propelled vehicles owned or operated by the occupants of the main building.

55. Gasoline service station: A retail establishment primarily engaged in selling petroleum products, but not including auto repair shops, body and fender works, similar repairing and painting uses, or mechanical or stream wash racks.

56. General plan: The town general plan.

57. Gross floor area: The sum of the areas of all horizontal surfaces of a building, measured from outside surface to outside surface.

58. Grade: The average of the finished ground level at the center of all of the exterior walls of a building. In case the front wall is parallel to and within five feet of a sidewalk, the grade shall be measured at the sidewalk at the centerline of the front of the lot.

59. Guest house: Living quarters for guests, relatives, or servants on the premises in an accessory building or attached to the principal residence.

60. Hive: A movable-frame receptacle used for keeping bees which may consist of one or more frames on a single box stand.

61. Home child care center: Any single residence dwelling in which child care is regularly provided for compensation for five or more, but not more than ten, children not related to the proprietor. The proposed child care center shall meet all requirements for certification by the state department of health.

62. Home occupation: Any activity carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.

63. Hospital: Any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons and including sanitariums, institutions for the cure of chronic drug addicts and mental patients.

64. Hotel: A building containing six or more guest rooms, in which lodging is provided and offered to the public for compensation and which is open to transient guests, together with commercial accessory uses operated primarily for the convenience of the guests thereof.

65. Household pet: Any animal commonly accepted as a domesticated pet and housed within the primary residential structure.

66. Improvement: Any man-made immovable item which becomes part of, places upon, or is affixed to real estate. Improvements are typically required to be installed as a condition of approval

or acceptance of a development. They may include, but are not limited to, roads, water facilities, easements, traffic control devices, utility lines, and other similar facilities.

67. Industry: The manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof.

68. Ingress: Access or entry.

69. Intervening property: Property located between an existing public right-of-way or existing public utility easement and the land within a subdivision or other large scale development.

70. Junk (salvage) yard: A place where scrap, waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, handled, or stored in the open, including, but not limited to, automobile wrecking yards, used lumber yards, and places or yards for the storage of salvaged house wrecking and structural steel materials, and equipment. This excepts farming operations, or where such activities are conducted entirely within a completely enclosed building and where salvaged materials are kept incidental to manufacturing or other industrial or agricultural operations conducted on the premises.

71. Kennel: Any enclosure, premises, building, structure, lot or area where dogs, cats, or other animals are kept, raised, sold, boarded, bred, shown, treated or groomed for economic gain.

72. Landscaping: Making an area attractive through the use and arrangement of living vegetation, such as trees, bushes, and groundcovers, together with inert materials such as wood, rocks, brick, and decomposed granite.

73. Land splits: The division of improved or unimproved land whose area is two and one-half acres or less into two or three tracts or parcels of land for the purpose of sale or lease.

74. Land use: A description of how land is occupied or utilized.

75. Large livestock: Includes cattle, horses, oxen, donkeys, mules, llamas, and other similar animals.

76. Livestock auction yard: A parcel of land and accompanying buildings used for the sale by auction of livestock offered on consignment.

77. Local street: A street whose purpose is to provide access to property, provide vehicular linkage within a residential or nonresidential neighborhood, but not necessarily through movements.

78. Lot: A tract of land bounded on all sides by property lines, of sufficient size to meet minimum zoning requirements, of use,

coverage, area, setbacks, and other areas as required by these regulations with legal access to a public street.

79. Lot area: The total land area, measured in a horizontal plane, included within the lot property lines.
80. Lot, corner: A lot located at the intersection of two or more streets.
81. Lot coverage: The area of a site occupied by structures and storage areas, and areas allocated to vehicular parking, maneuvering, and service.
82. Lot depth: The horizontal distance between the front and rear lot lines.
83. Lot frontage: The length of the lot line abutting a street.
84. Lot improvement: Any building, structure, place, work of art, or other object or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.
85. Lot, interior: A lot other than a corner or key lot.
86. Lot, key: Any lot where the side lot line abuts the rear lot line of other lots.
87. Lot line: A line of record bounding a lot.
88. Lot line, common: Any side or rear property line which adjoins or abuts another side or rear property line, not including side or rear property lines abutting a street or alley.
89. Lot line, front: The lot line separating a lot from a street.
90. Lot line, rear:
    a. The lot line which is opposite and most distant from the front lot line.
    b. The rear lot line of an irregular, triangular or gore lot shall, for the purpose of this code, be a line entirely within the lot at least ten feet along and parallel to and most distant from the front lot line.
91. Lot line, side:
    a. Any lot line not a front lot line or a rear lot line.
    b. A side lot line separating a lot from a street is a street lot line.
    c. A side lot line separating a lot from another lot is an interior side lot line.
92. Lot width: The mean horizontal width of the lot measured at right angles to the lot depth.
93. Major street: A street so designated on the adopted Marana transportation plan.

94. Manufactured home: A single-family dwelling structure transportable in one or more sections manufactured after June 15, 1976, to standards established by the U.S. department of housing and urban development. The structure is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

95. Manufactured home park: A residential use in which more than two manufactured home spaces are located on a single site area. The spaces may be leased, rented or sold. If the individual spaces are sold, the remainder of the use must be in the common ownership of all unit owners.

96. Medical marijuana dispensary: A nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804.

97. Medical marijuana dispensary offsite cultivation location: The one additional location, if any, duly identified pursuant to A.R.S. § 36-2806 (E) during the process of registering a nonprofit medical marijuana dispensary, where marijuana will be cultivated for sale at a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804.

98. Model home: A dwelling unit used initially for display purposes which typified the type of units that will be constructed in the subdivision.

99. Motel: A facility offering transient lodging accommodations of six or more rental units. A majority of all rental units have direct access to the outside without the necessity of passing through the main lobby of the building. Guests are generally traveling by automobile and parking is located convenient to each unit.

100. Multiple family structure: A building, located on one lot, containing two or more dwelling units. Also known as multifamily structure.

101. Native vegetation: Plants indigenous to an area.

102. Natural features: Include but are not limited to floodplains and surface drainage channels, washes, stream corridors and other bodies of water, steep slopes, prominent ridges, bluffs, or valleys, and existing trees and vegetation.

103. Nearby land: For purposes of significant land use change notice and protest requirements applicable in zones A-E, land lying within (a) one-quarter of a mile of a proposed significant land use change on a lot containing 2.5 acres or less, (b) one-half mile of a proposed significant land use change on a lot containing more than 2.5 acres but less than 25 acres, or (c) one

mile of a proposed significant land use change on a lot containing 25 acres or more.

104. Nonconforming: A parcel or land, or a building or structure, or portion thereof, or a use, which does not conform to the provisions of this land development code, and which existed prior to the effective date of the provision of this land development code to which it does not conform.

105. Nuisance: Annoying, unpleasant or obnoxious and out of character with the neighboring area.

106. Nursery:

    a. A place where young trees or other plants are raised for transplanting or for sale.

    b. Does not include commercial fertilizer yard or processing plant.

107. Off-site: Any premises not located within the area of the property to be subdivided or developed whether or not in the same ownership of the applicant to subdivision or development approval.

108. Off-street parking: Parking of motor vehicles in a location other than a street or public way.

109. On-site: Of or pertaining to a space within the boundaries of a subdivision lot or parcel.

110. Open space: Any area to be kept in open uses including active and passive recreational lands, desert, floodways, floodplains, parks, and greenbelts.

111. Orient: To bring in relation to, or adjust to, the surroundings, situation, or environment; to place with the most important parts (for example, the primary building entrance and the designated "front" of a building) facing in certain directions; or to set or arrange in a determinate position, as in "to orient a building."

112. Parcel of land: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit. Parcel includes an easement supporting or related to a primary parcel, and a condominium unit.

113. Parking lot: Any area of a site or structure used as a parking area for more than four motor vehicles.

114. Parking space, standard: A space not less than 20 feet in length and not less than nine feet in width for the parking of a motor vehicle, exclusive of driveways and ramps.

115. Permitted use: A land use allowed as a property right within a zoning category subject only to the requirements listed for that use.

116. Phase: A portion of a development project scheduled for construction and occupancy as an entity apart from other phases of the development.

117. Planning commission: The town planning commission.

118. Planning director: The town planning director.

119. Plat: A map of a subdivision.

120. Preliminary plat: A preliminary map, including supporting data, indicating a proposed subdivision design prepared in accordance with the provisions of the town subdivision regulations.

121. Premises: A zoned lot, together with the buildings and other structures located thereon.

122. Primary arterial: A road intended to move traffic to and from such major attractions as villages, regional shopping centers, colleges and/or universities, major industrial areas and similar traffic generators within the town and/or as a route for traffic between communities or large areas.

123. Primary or principal building: The building or structure on a commercial development site used to accommodate the majority of the principal permitted use(s). When there are multiple buildings on a commercial development site, such as in a shopping center, the primary or principal building shall be the one containing the greatest amount of gross floor area. Buildings sited on pad sites or free-standing kiosk/ATM machines cannot be "primary" or "principal" buildings.

124. Primary material: Material covering 75% or more of the wall elevation or the individual material that constitutes the majority.

125. Principal structure: A structure in which the principal use of the lot is conducted.

126. Principal use: The primary or predominant use of any lot.

127. Public improvement: Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the town may ultimately assume the responsibility for maintenance and operation.

128. Quasi-public land use: Use of the land by private, not-for-profit institutions or organizations for purposes which may, in fact, be public uses, or which may be restricted to a particular group, but which generally involve the use of the land or the facility located thereon by a large number of people; including

but not limited to churches, private schools, not-for-profit social organizations, hospitals, welfare organizations, or non-profit medical centers.

129. RAC: The permitted number of residences per gross acre (43,560 square feet of land area).

130. Ratite: Members of the group ratitae; large flightless birds, including emus and ostriches.

131. Recorded plat: A final plat bearing all of the certificates of approval required by Arizona Revised Statutes, and by the town subdivision regulations, and recorded by the Pima County recorder.

132. Recreational vehicle (RV): A unit, designed to provide temporary living quarters, built into as an integral part of or attached to a self-propelled motor vehicle chassis or to be towed by a motor vehicle. The unit contains permanently installed independent life support systems which provide at least four of the following facilities: cooling, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a potable water supply system including a faucet and sink, separate 110-125 volt electrical power supply and/or LP gas supply.

133. Recreation vehicle park: A parcel of land under single or common ownership where two or more spaces are leased, rented or sold for occupancy of an RV. A fee may or may not be charged for the use of the individual space.

134. Recreational vehicle space: An area within the RV park for the placement of an RV unit, in addition to any exclusive use area adjacent to the unit set aside for the occupants of the RV, such as patio or parking space.

135. Redevelopment: Development on a tract of land with existing structures where all or most of the existing structures would be razed and a new structure or structures built.

136. Registered engineer: An engineer properly licensed and registered in the state of Arizona.

137. Registered land surveyor: A land surveyor properly licensed and registered in the state of Arizona.

138. Research laboratory:

    a. An administrative, engineering, specific research, design or experimentation facility.

    b. Shall include research on such things as electronic components, optical equipment, etc.

139. Restaurant: An eating establishment where meals may be bought and eaten, also allowing the sale of alcoholic beverages.

140. Riding arena/rodeo grounds, private: An enclosed area used for the purpose of riding and training horses or other livestock for private enjoyment.

141. Riding arena/rodeo grounds, public: An enclosed area used for the purpose of riding, training, or showing horses or other livestock, or for the purpose of competition involving those animals.

142. Right-of-way: A strip of land occupied or intent to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drainages, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

143. Rodent: Any member of the order rodentia, such as, but not limited to: mice, rabbits, and hares.

144. Roof: The outside top covering of a building.

145. Sale or lease: Any immediate or future transfer or ownership including contract of sale or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map or other written instrument.

146. Screen: A barrier that functions to shield, protect or conceal.

147. Setback: A distance from a set point.

148. Significant land use change: Any change in land use in zones A-E that will: (1) more than double the number of residential units or enterprise density of the land in question within one year; or (2) change the nature of the activity on the land from residential (including renter occupied housing) to non-residential; or (3) change the nature of any business, industrial, or quasi-public use of the land (including agriculture use) to any use that would fall in a different two-digit sector number of the most recently published north American industry classification system (NAICS) as established by the United States census bureau; or (4) be reasonably expected to equal or exceed the capacity or structural integrity of nearby streets or other public facilities.

149. Single family dwelling, attached: A dwelling unit attached to one or more dwelling units by structural elements common to the attached units with each dwelling unit located on its own individual lot. The structural elements include common wall

construction, roof, or other similar improvement. Elements like trusses, beams, and patio walls are not included.

150. Single family dwelling, detached: A dwelling unit which is not attached to any other swelling unit by any structural elements and located on its own separate lot.

151. Sign: Includes all outdoor advertising on any card, cloth, paper, plastic, metal, painted glass, wood or stone, and any and all devices, structural or otherwise, lighted or unlighted, painted or not painted, attached to, made a part of, or placed in the window of, or in the front, rear, sides or top of any structure or on any land or any tree, wall, bush, rock, post, fence, building or structure and visible from any public or private street, way, thoroughfare, alley or walk, which device announces or directs attention to the name or nature of a business, occupant of a structure, building or land or the nature or type of goods, services or projects, produced, sold, stored, furnished or available at the location or at any other location, including signs specifically for the sale of real property.

152. Site: The land area designated for a development project, exclusive of any abutting public right-of-way. The land area can be a portion of a lot, a single lot, or can consist of more than one lot.

153. Small livestock: Includes sheep, goats, miniature horses and other similar animals.

154. Specific plan: A precise plan for a specific piece of property, or properties, typically under single ownership, which contains all the elements as specified within these regulations, and which has been adopted by the council, and which may supersede these land use regulations as they might otherwise apply to the specified property.

155. Stables, public: Structures where animals are kept for sale or hire; breeding, boarding, and or training.

156. Stables, private: Structures where animals are kept for private use.

157. Standards: Mandatory regulations. Standards are indicated by use of the terms "shall" and "must."

158. Stockyard: A penned enclosure, or structure, where small or large livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.

159. Story: A space in a building between the surface of any floor and the surface of the floor next above, or if there is no floor above, then the space between such floor and the ceiling or roof above.

160. Street: Any existing or proposed street, avenue, boulevard, road, land, parkway, place, bridge, viaduct or easement for

public vehicular access or a street shown in a plat approved pursuant to town, county, state of Arizona or other governmental unit regulations, or a street on a plat which has been approved by a unit of government and duly filed and recorded in the office of the county recorder. A street includes all land within the street right-of-way whether improved or unimproved, and includes such improvements as pavement, shoulders, curbs, gutters, sidewalks, parking space, bridges and viaducts.

161. Street, arterial: A street that serves or is intended to serve as a major way by which traffic may be conveyed between the town and other communities as well as between major population or activity concentrations within the town. Arterial streets are designated in the transportation plan element of the town general plan, and are generally one-mile apart on section lines.

162. Street center line: The centerline or monument line of a street or road right-of-way as established by an official survey.

163. Street, collector: A street that is supplementary to an arterial street and serves, or is intended to serve, to convey traffic between neighborhoods or similar areas within town. Collector streets are typically at half-mile points within a section.

164. Streets, minor: Any dedicated street serving as the principal means of access to property which is not shown on the town transportation plan as an arterial or collector street.

165. Street right-of-way width: The distance between property lines measured at right angles to the center line of the street.

166. Structure: Anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed or put together in some definite manner, which requires location on the ground. Includes any part of the structure.

167. Subdivider: Has the same meaning as in the definition of "subdivider" under Arizona law.

168. Subdivision: A division of land that meets the definition of "subdivision" under Arizona law.

169. Subdivision design: Street alignment, grades and widths, alignment and widths of easements and rights-of-way for drainage and sanitary sewers and the

A.R.S. § 9-463, paragraph 9 provides: "'Subdivider' means a person, firm, corporation, partnership, association, syndicate, trust or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of this article, any local applicable ordinance and other state statute, except that an individual serving as agent for such legal entity is not a subdivider."

A.R.S. § 9-463.02 (A) provides: "'Subdivision' means improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediate or future, into four or more lots, tracts or parcels of land, or, if a new street is involved, any such property which is divided into two 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 parts. 'Subdivision' also includes any condominium, cooperative, community apartment, townhouse or similar project containing four or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or airspace above the property shown on the plat are to be divided." A.R.S. § 9-463.02 (C) provides: "'Subdivision' does not include the following: 1. The sale or exchange of parcels of land to or between adjoining property owners if such sale or exchange does not create additional lots. 2 The partitioning of land in accordance with other statutes of the State of Arizona regulating the partitioning of land held in common ownership. 3. The leasing of apartments, offices, stores or similar space within a building or trailer park, not to mineral, oil or gas leases.

arrangement and orientation of lots as set forth in the town subdivision regulations or design manuals, or both.

170. Subdivision improvements: Infrastructure and improvements required to be constructed or installed as a condition of subdivision approval pursuant to the town subdivision regulations or state law, including but not limited to grading, sewer and water utilities, streets, easements, and traffic control devices.

171. Swine: Any hoofed animal of the porcine species, such as a pig.

172. Temporary use: Any use allowed for a specified period of time. A use not of a permanent nature.

173. Townhouse: A single-family dwelling, attached, in which each unit has its own separate front entrance, and no unit is located over another unit.

174. Transportation corridor: Land occupied by transportation facilities, including airports, railroads, roads, irrigation canals, or public utility line, or which is immediately adjacent to such facilities, and which has been designated for the purpose of accommodating such modes of transportation and related uses.

175. Use: The purpose for which land or a building is arranged designed or intended, for which either land or building is or may be occupied or maintained.

176. Utilities: Services such as natural gas, electricity, water, telephone, and cable television.

177. Variance: An exception to the provisions of these regulations.

178. Veterinary clinic or animal hospital, large: Any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals including large and small livestock.

179. Veterinary clinic or animal hospital, small: Any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals including domestic pets.

180. Vicinity plan: A map showing the relationship of a project or lot to adjacent streets, lots, and structures.

181. Wall: An upright opaque structure of wood, stone, brick, etc., serving to enclose, divide, support, protect, or screen.

182. Yard: Any open space other than a court on the same lot with a building or dwelling group which open space is unoccupied and unobstructed from the ground upward to the sky except for the projecting and/or accessory buildings permitted by these regulations.

B. The definitions set forth in this section supplement the definitions set forth in chapter 1-3 of this code.

C. Additional definitions that apply to specific chapters of this title may be found in the applicable chapter.

CHAPTER 17-2. ADMINISTRATIVE BODIES AND OFFICERS

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17-2-1 Planning commission

A.R.S. § 9-461.02 authorizes the creation of a planning commission, and provides for local ordinance to address the organization, number of members, terms of office, method of appointment and removal of members.

A. Establishment and composition. The planning commission consists of seven members appointed by the council from among the residents of the town.

B. Organization. The planning commission shall consist of a chairperson, a vice-chairperson, and five other members. The planning commission shall adopt rules for its own organization and for the transaction of its business. The rules shall not conflict with other sections of this code or other ordinances of the town or with the laws of the state of Arizona.

A.R.S. § 9-461.06 (E) and (F) describe the planning commission's role in the adoption and amendment of the general plan. A.R.S. § 9-461.09 requires the planning commission to hold at least one hearing on a specific plan application. A.R.S. § 9-461.12 authorizes the planning commission to hold joint meetings with other planning commissions upon approval of the council. A.R.S. § 9-462.04 (A) requires the planning commission to hold a public hearing on any zoning ordinance.

C. Duties and powers.

1. Obligations imposed by law. The planning commission shall undertake all tasks necessary to comply with state laws.
2. Reports and recommendations. The planning commission may make reports and recommendations relating to the planning and development of the town to the council and to other organizations and residents of the town. The planning commission may recommend programs for the construction or financing of public improvements to executive or legislative officials of the town.
3. Other tasks assigned by the council. The planning commission shall undertake all other tasks assigned by the council.

17-2-2 Board of adjustment

A.R.S. § 9-462.06 requires the town to establish a board of adjustment and prescribes its duties.

A. Establishment; purpose. There is hereby established a board of adjustment for the town.

B. Appointment; vacancies; term. The board of adjustment shall consist of seven members, who shall serve at the pleasure of the council, each of whom shall be a resident of the town. Members shall serve staggered terms, with four members, initially serving a term of two years, and three members initially serving a term of four years. Thereafter, each member of the board shall be appointed to serve a term of four years. Vacancies on the board of adjustment shall be filled by a majority vote of the council to fill the remaining term of office.

C. Officers; public meeting and minutes; bylaws; quorum; procedure.

1. Immediately upon formation and every two years thereafter, following the seating of new board members, the board of adjustment shall elect a chair person with the power to administer oaths and take evidence.

2. The meetings of the board of adjustment shall be subject to the requirements of the Arizona open meeting laws. The minutes of the board's proceedings shall show the vote of each member. Records of the board's examinations and other official actions shall be filed with the secretary to the board of adjustment as a public record.

The Arizona open meeting laws are found at A.R.S. §§ 38-431 through -431.09, and provide for the posting of agendas, keeping of minutes, and other requirements designed to assure that meetings are conducted openly

3. The board of adjustment shall follow and adhere to any rules of procedure established for the board by the council.

4. The board of adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with applicable law and any rules of procedure established for the board by the council.

D. Powers and duties.

A.R.S. § 9-462.06 (G) and (H) establish and restrict the powers and duties of the board of adjustment.

1. Variances. The board of adjustment shall hear and decide appeals for variances, as provided by state law.

2. Interpretations. The board of adjustment shall hear and decide appeals from zoning decisions of the planning director, as provided by state law.

3. Other matters. The board shall consider any other matter referred by the council.

E. Compensation. The members of the board of adjustment shall serve without compensation; however, members may be reimbursed for actual expenses incurred in conjunction with their duties and authorized and approved by the council.

17-2-3 Planning director

A.R.S. § 9-462.05 (C) requires the council to establish the office of zoning administrator, who is responsible for enforcement of the zoning ordinance. A.R.S. § 9-462 (A)(4), defines the "zoning administrator" as the official responsible for enforcement of the zoning ordinance. In Marana, the planning director is the zoning administrator.

The planning director shall be primarily responsible for the administration of this title, under the direction of the town manager. The planning director is the "zoning administrator" for purposes of title 9, article 6.1, A.R.S. (A.R.S. § 9-462 *et seq.*)

17-2-4 Cultural resources preservation board

A. Function. The cultural resources preservation board is established as an advisory board to the council. As such, its function is to hear and consider matters of legislative nature, of policy and of other cultural resource preservation functions as necessary.

B. Establishment and composition

1. The council hereby creates a cultural resources preservation board to consist of five voting members. The five regular members of the cultural resources preservation board shall be

appointed by the mayor, with the consent of the council. The members shall be selected without regard to political affiliation and shall serve without compensation, except for the reimbursement of actual (necessary and reasonable) expenses incurred in accomplishing the purposes of the board, provided such expenses have been approved in accordance with the town's financial procedures ordinance.

2. Terms of office, filling of vacancies and removal. The board members shall be appointed for six-year terms, except that the original members shall be appointed for staggered terms: two for three years and three for six years. Vacancies occurring otherwise than through the expiration of terms shall be filled by appointment by the mayor with the consent of the council. Regular members of the board may be removed from office without cause, by a majority vote of the entire membership of the council.

C. Organization. The cultural resources preservation board shall be comprised of five members, to be appointed by the mayor and approved by the council. Each member must have a demonstrated interest, experience or knowledge in one of the following: history, architecture, planning, archaeology, historic archaeology, real estate, historic preservation, law or a related field; three of the members shall possess professional qualifications in one of the following fields: archaeology, architecture, preservation planning, or history. A majority membership of the five members shall be residents of the town. One member of the planning commission shall be appointed to ensure the continued coordination between the two groups. If no one can be found to serve on the board who both possesses the required professional qualifications and resides within the town, a person possessing the required professional qualifications may be appointed upon approval by the council. Its membership shall consist of a chairperson, a vice-chairperson, and three voting members. The board shall adopt rules for its own organization and for the transaction of its business, but such rules shall not be in conflict with other sections of this code or other ordinances of the town or with the laws of the state of Arizona.

D. Meetings. Meetings of the cultural resources preservation board shall be quarterly and at such other times as may be necessary to conduct its business in a timely fashion. All meetings shall be open to the public and the board shall cause an agenda to be made public not less than five calendar days prior to its meeting.

E. Quorum and voting. Three members of the cultural resources preservation board shall constitute a quorum. The concurring vote of the three convening members is necessary to approve any matter before the board.

F. Records. The cultural resources preservation board shall maintain a public record of its hearings, decisions and findings.

G. Rules of procedure. The cultural resources preservation board may adopt rules of procedure to carry out its functions. Copies of such rules will be filed with the town clerk and made available through the planning director.

H. Duties. The board is charged with developing a comprehensive cultural resources preservation program and undertaking any actions necessary to assure compliance with certified local government requirements. Duties of the board include, but may not be limited to, the following:

1. Legislative. Reviewing proposed alterations to historic and archaeological resources through the certificate of appropriateness process;

2. Advisory.

   a. Establishing a process for identifying Marana's historic, archaeological and cultural resources;

   b. Developing recommendations to provide a variety of support and incentives, including funding concepts, to enhance and maintain significant historic and archaeological resources;

   c. Identifying cultural resources historic significance in the town, and developing, maintaining, and from time to time amending plans for the preservation of those resources;

   d. Establishing and maintaining the Marana historic register;

   e. Inventorying historic properties and recommending to the council designation for historic property districts;

   f. Establishing guidelines for evaluation of historic and archaeological resources;

   g. Coordinating resources and providing technical assistance;

   h. Developing criteria and review procedures;

3. General.

   a. Providing public information and education on preservation;

   b. Conferring with other city, county, regional, state and national historic preservation boards and commissions;

   c. Developing partnerships with groups such as the Arizona historical society and the state historic preservation office;

   d. Reporting its progress to the council.

CHAPTER 17-3. ADMINISTRATION AND ENFORCEMENT

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17-3-1 Amendment procedure

A. This development code, including the zoning map, may be amended. Any person seeking an amendment to this development code shall first submit to the planning director an application designating the change desired and the reasons therefor, and shall pay a filing fee as established by the council. The filing fee shall not be returned to the petitioner requesting the amendment. Any member of the planning commission or the council, acting in an official capacity, or the planning director, the town building official, the town attorney, or the town engineer may also initiate an amendment to this development code without the payment of said filing fee.

B. Application requirements shall be established by the planning director. However, at a minimum, applications for an amendment to the zoning map, or change in zoning classification, shall include the following:

1. A preliminary site plan of the property showing the use(s) proposed for the site, showing setbacks, heights, floor area ratio's, parking areas, landscaping, and other information to assist the planning commission and the council to evaluate the request. This plan shall become part of the record of the case, and final plan review shall substantially comply with the preliminary site plan.

2. Appropriate public service and utility information, including how the project will be served by water, sewer, gas, electricity, telephone, and other utilities.

3. Public service information, including how the project will impact local services such as schools, police, parks, fire service, sanitary pick-up, and other similar services. Included shall be how the developer will provide public paved roads, provisions of parks and playgrounds for residential development, and other services required by the project.

4. Site information, such as site topography, preliminary hydrology and drainage information, and preliminary grading considerations.

5. In addition, the planning director, or the planning commission, may request other information that will be helpful to the

planning commission and the council in their evaluation of the request.

17-3-2 Conditional use permits

A. Purpose. The town recognizes certain uses which may be appropriate in a specific zoning district, but which may have characteristics that, depending upon the location, design, and standards of operation, may have a greater impact than permitted uses on adjoining properties, businesses, or residences. Such uses require more comprehensive review, including the ability of the town to establish specific conditions for the project to mitigate any potential impacts. The planning commission can evaluate only conditional uses listed, and is empowered to grant, grant with conditions, or deny any application for a use permit. The planning commission's review is subject to findings and the application meeting requirements of this section. The burden of proof shall be the responsibility of the applicant.

B. Application. Applications shall be filed with the planning director on an application form with the required documentation specified on guidelines provided by the planning director with appropriate fees. The application, at a minimum, shall include the following:

1. Name and address of the applicant. If the applicant is not the owner of the property, the name and address of the owner shall be supplied along with authorization that the applicant is the agent of the owner and may apply for the use permit. Proof of ownership must be submitted with the application.

2. A statement describing the proposed use, and any pertinent data required to evaluate the use, including but not limited to: hours of operation, numbers of employees and shifts, processes and materials involved in the use, and types and volume of traffic generated by the use.

3. A list of all owners of property within 300 feet of the exterior boundaries of the property subject to the application. The list shall be accompanied by a map showing the location of these properties.

4. A site plan including dimensions showing the type and location of buildings, structures, floor plans, parking, landscaping, circulation and other relevant site information.

C. Public hearing. The planning commission shall hold a public hearing on the application. Prior to the public hearing, notice shall be given in the manner provided in A.R.S. § 9-462.04 (A).

D. Findings. A conditional use permit may be granted only after a determination by the planning commission that the proposed use:

1. is appropriate to the specific location;

2. is not detrimental to the health, safety, and general welfare of the town;

3. will not adversely affect the orderly development of property within the town;
4. will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the town;
5. is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan, if any;
6. will not create a nuisance or enforcement problem within the neighborhood;
7. will not encourage marginal development within the neighborhood;
8. will not create a demand for public services within the town beyond that of the ability of the town to meet in the light of taxation and spending restraints imposed by law;
9. is consistent with the town's approved funding priorities; and,
10. that the proposed site is adequate in size and shape to accommodate the intended use and that all requirements for the zone district, included but not limited to, the setbacks, walls, landscaping and bufferyards will be met.

E. Action by the planning commission. The planning commission may grant, grant with conditions, or deny the application. The planning commission may place any conditions which are deemed necessary to mitigate potential impacts and insure compatibility of the use with surrounding development and the town as a whole. These conditions may include, but are not limited to:

1. requirements for setbacks, open spaces, buffers, fences or walls to mitigate conflicts from visual, noise, lighting and similar impacts associated with the use;
2. dedication and/or paving of street or other public rights-of-ways, and control in location of access points and on-site circulation to mitigate traffic impacts from increased volumes or nature of traffic activity associated with the use;
3. regulations pertaining to hours of operation, methods of operation, and phasing of the development of the site to mitigate impacts to surrounding properties and the neighborhood;
4. time limits on the duration of the permit to determine if the use, after a temporary period of operation, is materially detrimental or to evaluate whether changed conditions in the neighborhood effect the capability of the use to continue to adequately mitigate impacts to the surrounding area or the town as a whole.

F. Effective date of the conditional use permit. The decision of the planning commission shall be final and effective 15 days from the date of decision unless an appeal is filed as provided below.

G. Appeal procedure.

1. The action of the planning commission may be appealed to the council by the applicant, any member of the council, the town manager or any property owner within 300 feet of the property subject to the request. Such requests for appeal must be filed on an application form provided by the planning director, with the appropriate fee, within the 15 days following the date of the planning commission action.

2. Consideration of the appeal shall be made at a public hearing only after notice of the hearing has been placed in the newspaper of general circulation in the area designated by the council for legal public notice, at least 15 days prior to the hearing.

3. The council shall act to affirm, or reverse, in whole or in part, or modify the planning commission's decision including adding to or deleting the conditions attached to the approval by the planning commission. Any action to grant a conditional use permit, either by affirmation, modification, or reversal of the planning commission's decision, must include the required findings for use permits as provided in this section.

H. Modification of conditional use permits. A request to modify, expand, or otherwise change an approved conditional use permit, not in substantial conformance with the approved permit, shall be processed according to the provisions of this section as a new application.

I. Exercise and use. A permit automatically expires if the use is not established within six months of its grant or within the time otherwise specified in the permit, whichever is greater. For a use requiring a building permit, the use is established when a building permit is issued or a development plan is approved for the use. If the use does not require a building permit, the use is established when the planning director finds clear and visible evidence of the use's establishment.

J. Extension of initial period for use. Upon a showing of good cause, the planning director may, after notice to the planning commission, extend the period for initially exercising the permit for a maximum of one additional year.

K. Expiration upon discontinuance. If a use established under a conditional use permit is discontinued for any reason for a period of six months, the permit becomes void and the use may not be resumed. Upon applications during the six month period by the owner and upon showing of good cause, the planning director

may grant another extension not to exceed a total of six additional months.

L. Revocation. Failure to comply with the conditions, stipulations or terms of the approval of a conditional use permit is a violation of this code and will be enforced as such. Repeated offenses shall be cause for revocation of the permit.

M. Grounds for revocation. The planning commission may revoke a permit on any of the following grounds:

1. Violation of a zoning regulation of the town.
2. Violation of a term, limitation or condition of the conditional use permit.
3. Causing or allowing a nuisance in connection with the premises.
4. Conviction of a violation of federal or state law or town ordinance in connection with the operation of the permitted use.

N. Termination upon change of use. A conditional permit for an established use terminates upon the establishment of a new use.

O. Status of the conditional use permit. A use permit granted pursuant to the provisions if this section shall run with the land and continue to be valid regardless of ownership of the property or structure so long as it operates within the conditions, stipulations, and terms of the permit.

P. Conditional uses upon annexation

1. Purpose. The uses and densities permitted under county zoning and in county zoning districts do not directly correlate to the uses and densities permitted in the most closely comparable town of Marana zoning classifications. Upon annexation, this paragraph P is intended to authorize the council to conditionally permit uses and densities permitted by the county immediately before annexation upon translation of county zoning to the most closely comparable town of Marana zoning classification.
2. Applicability. The special procedures and authority set forth in this paragraph P apply only to the translation of county zoning to town of Marana zoning upon annexation of property.
3. Procedure. Except as specifically set forth below, paragraphs A through G, I through K, and O of this section 17-3-2 shall not apply to conditional uses authorized upon annexation pursuant to this paragraph P. Conditional uses granted upon annexation shall be included in the ordinance adopted by council translating county zoning upon annexation.
4. Findings. In determining whether to grant conditional uses upon annexation pursuant to this paragraph P, the council

shall consider the factors set forth in paragraph D of this section.

5. Conditions. Conditional uses permitted by the council upon annexation may include conditions the council deems necessary to mitigate potential impacts and insure compatibility of the use with surrounding development and the town as a whole, including without limitation those conditions set forth in paragraph E of this section.

6. Effect. Paragraphs H (modification of conditional use permits), L (revocation), M (grounds for revocation), and N (status of conditional use permit) shall apply to conditional uses permitted by the council upon annexation pursuant to this paragraph P.

17-3-3 Temporary use permit

A. Temporary uses or structures not otherwise permitted by code provisions may be permitted provided:

1. That the need for the temporary use or structure has arisen from circumstances constituting a substantial hardship, including but not limited to a natural disaster, fire or governmental action, or construction or development of a permanent structure.

2. That the setback structure will not violate any applicable yard setbacks.

3. That any temporary use permitted must be capable of being removed within 15 days' notice if the temporary permit is revoked.

4. That the temporary use shall not be granted for more than nine months except that up to an additional one-year period may be granted for good cause shown.

5. That a mutual consent agreement between the town and the applicant be signed and guaranteed by cash or a bond acceptable to the town attorney in an amount set by the council to guarantee termination of the temporary use and performance of the provisions of the mutual consent agreement.

B. The council may approve an application with such conditions, modifications and restrictions as the council finds necessary to make the temporary use more compatible with the surrounding neighbors and to carry out the plans and policies of the town.

17-3-4 Compliance with code

Permits shall not be granted for the construction or substantial modification of any building or structure or for the moving of a building or structure onto a lot or for the change in use of any land, building, or structure if such construction, moving, modification, or

change in use would be a violation of any of the provisions of this code, nor shall any sewer or water service line or electric or gas utilities be installed to service the premises if such use would be a violation of this code. Any license or permit issued by any official or employee of the town which would not be in conformance with the provisions of this code shall be null and void. Any use, arrangement, or construction that is not in conformance with plans, specifications, or other documents approved under the terms of this code shall be deemed a violation of this code.

17-3-5 Responsibility for violation

It shall be the responsibility of the owner of the land and any and all builders, contractors, sub-contractors, real estate agents, and any other person having appropriate decision-making authority in the establishment of any use of land or the erection, modification, or relocation of any building or structure or other use of the land to make sure that a proper permit has been obtained before work is begun. Any person doing any work on a project for which a proper permit has not been obtained shall be deemed in violation of this ordinance.

17-3-6 Responsibility for enforcement

A. The planning director shall be responsible for the enforcement of zoning ordinances codified in this land development code, with the assistance of the town attorney.

B. The town engineer shall be responsible for the enforcement of subdivision and floodplain regulations codified in this land development code, with the assistance of the town attorney.

CHAPTER 17-4. [RESERVED: FUTURE LOCATION OF THE ZONING CHAPTER]

CHAPTER 17-5. SUBDIVISIONS

Sections:

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17-5-1 Purpose and intent

The purpose of this chapter is to provide for the orderly growth and harmonious development of the town in accordance with the general plan and other adopted plans and ordinances; to create high quality neighborhoods and ensure adequate traffic circulation through coordinated street systems, transit, bicycle and pedestrian systems

with relation to major thoroughfares, adjoining subdivisions, and public facilities; to achieve individual property lots of reasonable utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements; to ensure consideration of adequate sites for schools, recreation areas, and other public facilities; to promote the conveyance of land by accurate legal description and plat; and to provide logical procedures for the achievement of this purpose.

17-5-2 Procedure

A. Overview.

1. The preparation, submittal, review and approval of all subdivisions located within the town limits proceed through the following progressive steps, except when otherwise provided by approval of the town:
   a. Pre-application conference with the town.
   b. Preliminary plat submittal, review, and approval.
   c. The submittal and approval of engineering plans for the required subdivision improvements.
   d. Final plat submittal, review, and approval only after the preliminary plat is approved by the council.
   e. Recordation of the approved final plat with the county recorder.
2. The following subdivision acts shall not be deemed a subdivision within the context of sections 17-5-2 and 17-5-3, and shall, therefore, be processed in accordance with section 17-5-6:
   a. Land splits.
   b. Minor land divisions.

B. Pre-application conference

1. The pre-application conference for subdivision review is an investigatory information exchange period prior to the preparation and formal submittal of a preliminary plat application by the subdivider. Pre-application review shall proceed in the manner set forth in this section.
2. At least seven days before the pre-application meeting, the subdivider shall request a pre-application meeting with the planning department and shall submit at least five copies of the general concept of the proposal, which shall include:
   a. Sketch plans at no larger scale than one inch equals 100 feet;
   b. Narrative ideas regarding land use, street and lot arrangement, lot sizes and dimensions;

c. Tentative proposals regarding water supply, sewage disposal, grading and drainage, stormwater retention, and street improvements;

d. The site resource inventory (section 17-11-3); and

e. A vicinity plan, showing streets and utilities in the surrounding area within at least one-quarter mile of the proposed subdivision.

3. Planning staff shall advise the subdivider of:

a. Specific town objectives, standards, and regulations related to the subject property;

b. The subdivision design expectations; details and suggestions regarding subdivision platting procedures and requirements;

c. Citizen participation requirements; and

d. Related issues.

4. If appropriate, planning staff may request the subdivider to revise the initial proposal and present the revised proposal to the planning department for additional review.

5. Following the pre-application conference with the planning department, the subdivider may prepare a preliminary plat containing the information and data required for preliminary plats specified in subsection 17-5-2 C below.

C. Preliminary plat

1. Preliminary plat submittal: The subdivider shall submit the following materials to the planning department

a. Twelve copies of the preliminary plat reproduced in the form of blue or black line prints on a white background. Plan sheets shall not exceed 24 inches by 36 inches in overall size.

b. A completed application and supplemental forms. If the subdivider is not the current land owner of all of the subject real property, a signed and notarized statement shall also be filed attesting that the owner grants to the subdivider authority to represent the owner in this matter.

c. A nonrefundable preliminary plat filing fee to compensate the Town for the costs of examining and processing the subdivision plat and subsequent field investigations. The required fee for subdivision plats shall be approved by resolution of the council. The fees shall cover the cost of the filing of one amended or revised preliminary plat handled as the same case. If preliminary plat approval expires prior to application for final plat approval, the plat shall be resubmitted for preliminary approval as a new case, and the subdivider shall pay the required fee.

d. Twenty-eight copies of 11 inch by 17 inch reductions of the preliminary plat.

e. Three copies of a preliminary grading plan.

f. All submittals shall be reviewed by the development coordinator for completeness and assigned a project number. If incomplete as to the requirements set forth in this chapter, the submittal will be rejected and returned to the subdivider for completion and submittal.

g. The development coordinator will send copies of the preliminary plat to applicable town staff members for review and comment. In addition the development coordinator will send copies of the preliminary plat to applicable reviewing agencies, including utilities, cable television companies, school districts, county offices, state and federal offices, and any adjacent municipalities. Written recommendations from the review agencies shall be transmitted to the development coordinator.

2. Preliminary plat approval

a. An applicant shall submit all of the documents, information, data, and other requirements for preliminary plat approval to the planning department, and shall furnish all information and materials required to satisfy the requirements of this chapter.

b. An applicant shall also submit a plan showing proposed conceptual landscape and streetscape proposals. The conceptual streetscape and landscape plans shall be for open spaces, entryways and streets, and shall note the requirement to obtain a license agreement if any materials are installed in the public right-of-way.

c. In addition to the requirements of the preceding subsections, the applicant shall provide to the planning department any additional information, documents, or other material relevant to the application that planning staff reasonably believes is necessary for the planning commission to evaluate, analyze, and understand the subject matter of the application.

d. An application for preliminary plat approval shall not be deemed to have been filed or properly submitted until payment of all fees and compliance with all of the above listed requirements. Compliance shall be determined by the planning director.

e. A preliminary plat application may be denied if the town determines that all or part of the subject property has adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of

See A.R.S. § 9-463.01(C)(4)

water, or other natural or manmade hazards to life or property.

f. The town may approve a preliminary plat for land with adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of water, or other natural or manmade hazards to life or property subject to special requirements relating to lot size, special grading and drainage requirements, or other conditions the town deems reasonable and necessary for the public health, safety or general welfare.

g. The procedure for approval, amendment, or denial of preliminary plat applications shall be as follows:

   i. The planning commission shall recommend to the council that a preliminary plat be conditionally approved or denied no more than 45 days after initial consideration. The planning commission shall recommend that a preliminary plat be conditionally approved or denied after reviewing the application and conducting a public meeting. In cases of conditional approval, the specific conditions shall be included by reference in the minutes of the planning commission meeting. If the preliminary plat is denied, the planning commission shall cite specific reasons for doing so. This will not be construed, however, to preclude the planning commission from rejecting plans for other or additional reasons. If the preliminary plat is denied, the subdivider may resubmit revised preliminary plats until approval is obtained from the planning commission or may move forward to the council with a recommendation of denial. If the council upholds the planning commission's rejection, then the subdivider must file a new application for the preliminary plat for that specific subdivision.

   ii. Within 60 days, the council shall review the planning commission's recommendation and hold its own public meeting hearing regarding the preliminary plat. The council may uphold, deny or modify the planning commission action. Decisions of the council shall be final.

   iii. Upon approval of a preliminary plat, by the council, the applicant shall provide copies of the plat on mylars, signed by all applicable agencies within 45 days. If, not submitted, such approval shall be deemed to have expired.

   iv. The approved preliminary plat shall be submitted to the town engineer and the public utilities that will serve the subdivision for their review and the preparation of cost

estimates for the improvements required under section 17-5-3 of this code. The town engineer shall review the preliminary plat for consistency with accepted engineering standards and the requirements of this code, and shall prepare an estimate of the cost of all required improvements that are not to be installed by or for public utilities.

v. A new preliminary plat application can be refiled at any time. Revisions to the plat will need to resolve the reasons for the denial as originally proposed, if substantially the same. The new filing of a preliminary plat application for the same area, or any portion thereof, shall follow the procedures and requirements specified in this section.

3. Significance of preliminary plat approval. The preliminary plat approval by the council, with the completion of the required signatures, constitutes authorization for the subdivider to proceed with preparation and submittal of the final plat and engineering improvement plans and specifications (may be done concurrently). preliminary plat approval is subject to the following conditions:

a. The conditions under which approval of the preliminary plat is granted will not be changed prior to expiration date unless by application for a revised preliminary plat. The application shall follow the same procedures as the original approval.

b. Approval is valid for a period of two years from the date of approval. After two years, the approval shall be deemed to have expired if a final plat is not recorded.

c. Upon the subdivider's written application to the council and payment of the applicable application fee, preliminary plat approval may be extended for an additional one year if, in the opinion of the council, there is no change in conditions within or adjoining the preliminary plat which would warrant its revision and the applicant demonstrates to the council's satisfaction that substantial effort is being applied to create a final plat.

d. In no case shall preliminary plat approvals exceed a total of three years.

e. If preliminary plat approval expires prior to application for final plat approval, the plat shall be resubmitted for preliminary approval as a new case and the subdivider shall be required to pay a new fee.

f. The preliminary plat shall not be recorded.

D. Final plat

1. Final plat submittal:

a. The subdivider or his authorized representative shall submit the following materials to the planning department:

i. A completed application and supplemental forms.

ii. A nonrefundable final plat filing fee in an amount set by council resolution to compensate the town for the costs of examining and processing the subdivision plat and subsequent field investigations.

iii. The necessary 24 inch by 36 inch paper copies of the final plat reproduced in the form of blue or black line prints and an 11 inch by 17 inch reduction.

iv. One reproducible mylar copy of the final plat for recordation (submitted prior to council review).

v. The necessary copies of an 11 inch by 17 inch reduction of the final plat (submitted prior to council review).

vi. Copies of the proposed deed restrictions (covenants, conditions, and restrictions) for the proposed subdivision.

vii. One set of the final signed deed restrictions (covenants, conditions, and restrictions) to be recorded with the final subdivision plat (submitted prior to council review).

viii. One fully executed original subdivision assurance agreement (submitted prior to council review).

b. Upon receipt of the final plat application, the planning director shall check the plat for conformity to the approved preliminary plat, all applicable conditions of approval and compliance with the requirements for final plats as set forth in subsection 17-5-2D.2.

2. Final plat requirements:

a. Each final subdivision plat shall comply with the requirements of the zoning district within which it is located.

b. The planning director shall submit the final plat application together with the staff recommendations to the council.

c. The final plat shall substantially conform to the approved preliminary plat, and shall be in compliance with all appropriate town standards, codes, specifications, and requirements.

d. The subdivider shall submit all necessary engineering improvement plans to the town for initial review prior to the council meeting.

e. Any information required as part of the final plat submittal shall be shown on the plans in a manner consistent with standard engineering practice and town standards.

f. At a minimum, the final recordable plat of a subdivision shall:

i. Be drawn in on archive quality mylar or other non-shrinking material not exceeding 24 inches by 36 inches in overall dimensions.

ii. Have a left margin of two inches.

iii. Be drawn to an accurate scale of not more than 100 feet to the inch, with one inch to 40 being the preferred alternative, and in at least 11 point type.

iv. Have a cover sheet showing the entire subdivision and indicating where each section of the subdivision may be found on the corresponding pages of the subdivision plat, if the plat exceeds one sheet

v. Meet the recording requirements of the county recorder of the county or counties where the subdivision is located.

vi. Contain a title that includes the name of the subdivision and its location by section, township, range, and county.

vii. Include the name, address, registration number, and seal of the registered land surveyor preparing the plat.

viii. Include a scale (written and graphic), north arrow, and date of plat preparation.

ix. Depict boundaries of the tract to be subdivided, fully balanced and closed, showing all bearings and distances and mathematical calculations, determined by an accurate survey in the field.

x. Express all dimensions in feet and decimals of feet.

xi. Accurately describe any excepted parcels within the plat boundaries by bearings and distances determined by an accurate survey in the field.

xii. Include the location and description of cardinal points of primary interest to which all dimensions, angles, bearings, and similar data on the plat shall be referenced.

xiii. Tie by course and distance to separate survey monuments approved by the town each of two corners of the subdivision traversed.

xiv. Include names, centerlines, right-of-way lines, courses, lengths and widths of all streets, alleys and easements,

radii, points of tangency and central angles of all curvilinear streets and alleys, and radii of all rounded street line intersections.

xv. Show the location and dimensions of all lots.

xvi. Indicate lot dimensions and appropriate bearings for at least one side lot line and either the front or rear lot line assuming additional dimensions are equal to those shown.

xvii. Show a buildable pad and minimum finished first floor elevations in areas subject to flooding.

xviii. Utilize a lot numbering system or be numbered consecutively throughout the plat.

xix. Designate, letter and name, and clearly dimension all tracts or parcels for school sites, parks, or other public uses.

xx. Accurately outline and delineate all property offered for dedication for public use and all property reserved for the common use of the property owners in the subdivision.

xxi. Show the name and parcel number of adjacent recorded subdivisions and the location of existing adjacent lots, easements and rights-of-way, or identify adjacent unsubdivided areas.

xxii. Graphically differentiate all proposed conditions from existing conditions on adjacent properties and on excepted parcels within the plat.

g. Two data diskettes, or other acceptable data carrier, of the approved final plat in a .dxf (data exchange file) format, shall be submitted to the town.

h. All final plats shall contain the following information:

i. Provide on the final plat such easements in such locations and widths as required. In addition, the following notation shall be placed upon all final plats:

"Except for construction and improvements by governmental entities and certificated public utilities, construction and improvements within easements shall be limited to only the following:

a) Wood, wire or removable section type fencing.

b) Construction, structures or buildings expressly approved in writing by all public utilities and the town which use or shall use the utility easement."

ii. Statement and acknowledgement of the dedication of all streets, alleys, tracts, drainageways, utility

easements, and other easements for public use by the persons holding title of record, by persons holding title as vendees under land contract, and by spouses of said parties, if jointly owned. If lands dedicated are mortgaged, the mortgagee shall also approve the plat (consent to dedicate by separate instrument may be necessary). Dedications shall include a written location by section, township, and range of the tract. The dedication shall include direct wording identifying the town as the new owner of any tracts or parcels being dedicated. If the plat contains private streets, provisions shall be made so that the public utilities reserve the right to install and maintain utilities above, on, and below such private streets or ways shall be reserved to the public utilities.

iii. The following certifications must be included on the final plat:

a) Certification by a registered land surveyor preparing the plat that the plat is correct and accurate, and that the monuments described in it have been located as described.

b) Certification of a registered civil engineer, if engineering information is represented on the plat. .

c) Certification of plat approval by the planning director, town engineer (or designated representative), town clerk and council.

d) Certification of plat approval by the authority responsible for providing wastewater management to the subdivision.

iv. [^Make reference to A.R.S. § 9-463.01 in a margin note]For subdivisions located within the town's water service area, the following note must be included on the final plat: "NOTE: This subdivision is located within the town of Marana water service area, which has been designated as having an assured water supply under A.R.S. § 45-576." For subdivisions not located within the town's water service area, consult with the town engineer for the appropriate statement of assured water supply.

v. The location of appropriate vehicular no access easements shall be included on the plat.

vi. When the plat contains amended development standards or other requirements, they shall be included in the notes of the plat. This includes such items as the maximum building envelope containing minimum building setbacks and maximum lot coverage

permitted, conservation easements, etc.. Sufficient typical examples must be included to avoid possible misinterpretation of irregular, nonstandard lots.

vii. Items identified in the final plat review checklist.

3. Final plat approval:

a. An application for approval of a final plat shall not be filed unless there is an approved, signed, preliminary plat for the proposed subdivision as provided for in subsection 17-5-2D of this chapter.

b. An applicant for final plat approval shall comply in all respects with the provisions of this code.

c. An applicant shall submit all of the documents, information, data, and other requirements for final plat approval to the development coordinator and shall furnish all information and materials needed to satisfy the requirements of this chapter.

d. In addition to the requirements of the preceding paragraphs, the applicant shall provide to the planning director any additional information, documents, or other material relevant to the application that planning staff reasonably believes is necessary in order for the council to evaluate, analyze, and understand the subject matter of the application.

e. An application for final plat approval shall not be deemed to have been filed or properly submitted until all of the above listed requirements have been complied with. The planning director shall determine compliance.

f. Consideration of the final plat by the council and action thereon shall take place in a public meeting, but may be on the consent portion of the agenda.

g. The procedure for approval, or denial of final plat applications shall be as follows:

i. The council shall approve, or deny applications for final plat approval pursuant to the provisions of this chapter. Upon receipt of a final recommendation on an application for final plat approval from planning staff, the planning director shall take the necessary action to add the final plat application to the agenda of the next available regular meeting of the council, whereupon the council shall either approve or deny the final plat application.

ii. Approval:

a) If the council approves the plat, the mayor and town clerk shall transcribe a certificate of the council's approval upon the plat, first making sure that the

other required certifications and dedications have been duly signed and acknowledged.

b) After council approval of a final plat and compliance with subsection 17-5-3B, the subdivider shall pay to the town the fee charged by the county recorder for the recordation of the plat, and the town clerk shall then promptly record the plat with the county recorder, pursuant to A.R.S. § 9-463.01(J).

iii. Amendment: If the council finds that the plat requires revisions, the application shall be tabled until the revisions can be satisfactorily accomplished and the application rescheduled for council action.

iv. Denial: If the council denies the plat, the minutes shall state the reasons for the denial. The final plat application may be re-filed at any time if revisions can resolve the reasons for the denial as originally proposed. The new filing of a final plat application for the same plat, or any portion thereof, shall be treated as a new project and will follow the procedures and requirements specified in this chapter.

17-5-3 Subdivision requirements

A. Design and documentation requirements. The layout and design of all subdivisions and engineering plans and the content of all required documentation shall be in accordance with town standards as directed by the planning commission or its authorized representative and adopted by resolution of the council.

B. Improvement requirements. The following improvements shall be installed in all every subdivision, and said improvements shall meet minimum town standards and shall be installed in accordance with town standards and specifications as directed by the town engineer:

1. Streets. The required streets shall be graded and paved and all required drainage improvements shall be installed, at no expense to the town.

2. Sanitary sewers. The required off-site and on-site sewer lines shall be installed in such a way that each lot can be served therefrom, at no expense to the town.

3. Water mains. The required off-site and on-site water mains shall be installed in such a way that each lot can be served therefrom, at no expense to the town.

4. Curb, gutter, and sidewalk. All streets shall be bordered by an approved curb and gutter. Paved sidewalks shall be required in all subdivisions having a density of more than one lot per acre.

5. Stormwater drainage and retention facilities. The required off-site and on-site drainage facilities shall be installed, at no expense to the town.
6. Traffic control devices. Street name signs, street lights, signals and other traffic control devices shall be installed, at no expense to the town.
7. Fire hydrants. Fire hydrants shall be installed as required by town specifications and/or the fire district serving the site at no expense to the town.
8. Landscaping and irrigation. In accordance with section 17-11-6 landscaping and irrigation shall be installed at no expense to the town.
9. Recreational area.
    a. Requirement: All new residential projects with a density greater than or equal to 3.0 dwelling units per gross acre and containing 50 or more dwelling units shall provide an improved on-site recreation area, as accepted by the parks and recreation and planning departments in compliance with the adopted park, trail, and open-space system master plan. The recreation improvements shall be constructed at the project developer's expense.
    b. Area: The minimum area (in square feet) for private, common on-site recreation areas shall be as follows:
        i. Apartment or condominium: 100 sq. ft. per unit
        ii. Town home or patio home: 140 sq. ft. per unit
        iii. Single-family residential: 185 sq. ft. per unit
    c. Limitation: Recreational areas shall not include land unsuitable for recreation purposes, such as peaks, ridges, land fragments, land restricted by town policy, condition or ordinance, and or land determined unusable for recreational purposes by the parks and recreation and planning departments.
    d. Facilities installation: The recreational facilities and parking improvements shall be completed and in place by the time 50% of the building permits are issued or an acceptable bond is secured to guarantee the required improvements.
    e. Optional method: An in-lieu fee may be accepted by the council pursuant to an agreement which shall provide, at a minimum, for the equivalent of park land (based on improved property) and the recreational facilities the project would have been required to provide.
10. Permanent survey monuments. Permanent survey monuments shall be installed in each subdivision, and their location shall be shown on the final plat. All corners of the subdivision and all

lot corners in the subdivision shall be marked. The permanent survey monuments shall be indicated on the final plat and shall consist of the state plane coordinate system, Arizona central zone {3176}, north American datum of 1983—high accuracy reference network (HARN), 1993 adjustment. Modified grids and/or constant combined factors are not allowed.

11. Environmental hazards. The subdivision layout shall make adequate provision for natural drainage channels and floodways. Added surface water produced by the subdivision's development, particularly excess runoff created by paving, shall be properly disposed of within the subdivision or shall be drained into natural or man-made channels in a manner that will minimize the exposure to flood hazard, and will minimize erosion of the soil within and without the subdivision, from eroding and will not produce an undue flood hazard for adjacent properties. All other environmental hazards must be eliminated or adequately restricted as directed by the town.

12. Underground utilities. Electric power (except electrical transmission lines carrying 48 kV or more), telephone lines, cable television and fiber optics shall be located underground, except where the subdivider can show the planning commission that underground installation is not feasible. All underground installations shall be constructed prior to surfacing the street. Service stubs to platted lots within the subdivision for underground utilities shall be placed to at such length as not to necessitate disturbance of street improvements when service connections are made. Screening of all aboveground transformers, cabinets, etc., shall be provided.

13. Public safety hazards. The subdivision plan shall make adequate provision for protection of the public from adjacent irrigation canals, railroads, airport runways, mines, gravel pits, electrical substations, and pumps or other stationary equipment that are in existence at the time of approval of the preliminary plan, where such are deemed by the planning staff to constitute a significant hazard to public safety by the planning staff. Such provision may include, but shall not be limited to, adequate boundary walls or fences not to exceed six feet in height.

14. Irrigation lines and ditches. All irrigation channels and ditches within or adjacent to the subdivision, within perimeter easements or the nearest half of a street or alley right of way, shall be reconstructed for the purposes of enclosure in accordance with a specific plan and schedule acceptable and agreed upon by the town engineer, the subdivider and the owner of the irrigation facilities. The undergrounding shall be accomplished in compliance with standards approved by the town and by the owner of the irrigation facilities.

C. General requirements

1. All streets shall be dedicated for public use. The dedication of half streets in any subdivision is prohibited, except on the outside edge of a subdivision where such outside edge is a section line or mid-section line and there is sufficient width for a two-way road. All streets within the subdivision must be dedicated for public use or designated as a private street to be maintained by the applicable association.
2. Lots shall abut on a public or private street. Each lot of a subdivision shall abut on a public or private street dedicated by the subdivision plat or an existing dedicated street, or on a street which has become public by right of use and is dedicated and constructed to town standards.
3. All lots must be in conformance and consistent with the requirements set forth in the general plan, the land development code, the northwest Marana area plan and/or the applicable adopted specific plan, if any.
4. Uses of all areas must be identified.
5. A minimum 30 feet of lot frontage shall be provided, unless the applicant can provide justification that provisions of adequate access, utility service and public safety can be demonstrated to all reviewing agencies, as accepted by the town.
6. The depth-to-width ratio of subdivided buildable lots shall not be greater than three to one, unless justified and accepted by the planning director.
7. To properly provide for adequate safety and for the welfare of the public, corner lots for residential use, shall be platted at least five feet wider than interior lots to permit conformance with the required street side yard requirements and sight visibility triangles.
8. Lots having double frontage shall be avoided except where necessary to provide separation of residential development from traffic arterials, to provide ingress and egress in commercial or industrial subdivisions, or to overcome specific disadvantages of topography.
9. One-foot no access easements shall be identified, where direct vehicular access is not desired, to a street, common area or other area that might be construed to provide vehicular access.
10. No remnant of property shall be left in the subdivision which does not conform to lot requirements, unless required and dedicated to a homeowners' association, private utility or other public purpose, as accepted by the town.
11. All streets, including without limitation the length of dead-end streets and the number and type of vehicular access points, shall conform to the subdivision street standards.

*The subdivision street standards may be found here.^*

12. Wherever practical, all subdivisions created within any single-family residential zone should be designed to facilitate solar access and energy efficiency.

13. Wherever practical, all lots shall be graded in such a manner as to preclude excessive or unnecessary grade differences between adjacent lots or between lots and adjacent streets.

14. School sites and other public spaces. In subdividing property, considerations shall be given to sites for schools, parks, playgrounds, and other areas for public use, as shown by the general plan. Any provision for such open or public 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 public agency.

15. The town shall not accept or maintain streets or other public ways unless they have been constructed in accordance with town standards and specifications adopted by the council.

16. Work to be done by engineer or surveyor. All engineering work and/or surveying must be done by or under the direction of a qualified professional registrant registered in the state of Arizona.

17. Developer responsibility for quality of construction. The developer shall be responsible for the quality of all materials and workmanship in the development of an approved subdivision.

18. If construction deviates from approved plans as-built plans will be required. As-built plans, shall show the location, size, grade, and depth of all paving, grading, water and sewer mains, valves, manholes, and other subsurface utilities and facilities and shall be required prior to the release of performance guarantees. All survey monuments and lot corners shall be installed prior to release of performance guarantees.

19. Amended plats. When major changes are made in the plat of a recorded subdivision, an amended subdivision plat shall be approved and filed in accordance with the requirements of this code. No change shall be made in an approved plat unless the change has been approved by the council.

D. Non-performance. If any portion of a subdivision remains undeveloped five years after the subdivision plat was approved by the council, the council may, after a public hearing and notice to the owner of the property according to current county assessor's records, vacate all or any part of the undeveloped portion of the subdivision by recording a revised plat eliminating the vacated portion. This remedy is in addition to the council's authority to use financial assurances to complete subdivision improvements under subsection 17-5-5 A. 1 below.

17-5-4 Design standards

A. General

1. Every subdivision shall conform to the requirements and objectives of the general plan, the land development code, other ordinances and regulations of the town, and to the Arizona revised statutes.
2. Where the tract to be subdivided contains all or any part of the site of a park, school, flood control facility, or other public area shown on the general plan or recommended by the planning commission, the site should be dedicated to the public or reserved for acquisition by the public within a specified period of time. An agreement should be reached between the subdivider and the appropriate public agency regarding time, method and cost of such acquisition. In the event the planning commission determines that such an agreement has not been reached within a reasonable period of time, then the planning commission may make a determination that the requirements of this section have been met.
3. Land which is subject to periodic flooding, which cannot be properly drained, or other land which, in the opinion of the town engineer, is unsuitable for any use shall not be subdivided; except that the town may approve subdivision of such land upon receipt of evidence that the construction of specific improvements can be expected to render the land suitable; thereafter, construction upon such land shall be prohibited until the specified improvements have been planned and construction assured.

B. Building and site design

1. Building design shall consider the surrounding natural environment and be consistent and compatible with the character of the area and the zoning designation.
2. External building materials should be compatible with the natural landscape. Examples are native stone, adobe, and wood. Use of highly reflective metals, plastic and fiberglass should not be used except where it has been demonstrated that such materials are desirable for the type of use proposed (e.g., greenhouses).
3. Colors shall blend with the surrounding natural environment. In addition, roofs must meet the color requirements as well.
4. Developments should be designed to include smaller, clustered buildings or enhanced articulated elements rather than single massive structures that detract from the character of the area and obliterate the natural viewshed.
5. The siting of structures should take into consideration the natural and built environments of the property. Existing

vegetation shall be retained to the extent possible and natural grades should not be significantly modified.

6. All subdivisions shall result in the creation of lots capable of being lawfully built upon. Except for parcels to be maintained as open space or for another specific stated purpose, no subdivision shall create lots which are physically unsuitable for improvement due to size or shape, steepness of terrain, location of watercourses, problems of sewerage or driveway grades, or other natural physical conditions.
7. Wherever practical, building design and layout should be designed to facilitate solar access and energy efficiency.
8. Vehicle and pedestrian ways should be clearly delineated to prevent congestion and conflicts. Service vehicle areas shall be located such that they are screened from view of public ways and private property.
9. Pedestrian ways and multi-use paths may be required where essential for circulation, or for access to schools, playgrounds, shopping centers, transportation, and other community facilities. Pedestrian ways and multi-use paths may be used for utility purposes.
10. Where feasible, utilities such as meter boxes, mechanical installations and trash containers shall be screened with landscaping and materials complementary to the building design. On-site electrical wiring shall be underground.
11. Landscaping shall be provided in all required front and street side setback areas and should emphasize the use of drought-tolerant and native plants, unless an alternative renewable water resource is available and can be provided.
12. Washes should be retained in a natural state and left undisturbed where possible.
13. All outdoor lighting shall comply with the adopted outdoor lighting code requirements. In addition to these requirements, all fixtures shall be fully shielded. Light standards shall not exceed a maximum height of 15 feet.

C. Street location and arrangement

1. Whenever a tract to be subdivided embraces any part of a street designated in an adopted town streets and highways plan, such street shall be platted in conformance therewith.
2. Street layout shall provide for the continuation of such streets as the town may designate.
3. Certain proposed streets, as designated by the town, shall be extended to the tract boundary to provide future connection with adjoining un-platted lands.

4. Local streets shall be so arranged as to discourage their use by through traffic.

5. Where a proposed subdivision abuts or contains an existing or proposed arterial and/or collector routes, the town may require limited access or reverse frontage with non-access easements along the arterial route, or such other treatment as may be justified for protection of residential properties from the nuisance and hazard of high volume traffic, and to preserve the traffic function of the arterial route.

6. Streets shall be so arranged in relation to existing topography to minimize cuts and fills and produce streets of reasonable gradient, and to facilitate adequate drainage.

7. Half-streets shall be discouraged except where necessary to complete a street pattern already begun, or to insure reasonable development of a number of adjoining parcels. Where there exists a platted half-street abutting the tract to be subdivided, and said half-street furnishes the sole access to residential lots, then the remaining half shall be platted within the tract.

17-5-5 Performance guarantee

A. Before a subdivision plat is presented to the council for approval, the subdivider shall post assurances, in a form acceptable to the town attorney, to assure the installation of required street, sewer, electric and water utilities, drainage, flood control, landscaping, park facilities, and other improvements as required meeting minimum standards of design and construction established by this title and the Marana subdivision street standards. The purpose of the assurances shall be to guarantee that the improvements are installed in a timely manner and paid for without cost to the town.

1. Financial forms of assurance, including cash, letter of credit, performance bond, or other similar instruments, shall be filed in the office of the town engineer in an amount equal to the sum of the cost of construction for all required improvements, including surveying, construction management, testing, and inspections, as determined by the town engineer, plus a 15% contingency. A financial form of assurances for the installation of required improvements on private property shall grant to the town adequate property rights as determined by the town engineer and town attorney to allow the town or the town's contractor to complete the installation. Where, in the opinion of the council, the subdivider has failed or neglected to install the required improvements or make required corrections within a timely manner, or to pay all liens in connection with the required improvements, the council may, after a public hearing on the matter, use the proceeds from the assurances to install or cause to be installed the required improvements.

2. Third party trust forms of assurance prohibiting the transfer of any individual subdivision lot or block for which required subdivision improvements have not yet been installed, are permitted in lieu of financial forms of assurance.

B. The town manager is authorized to execute substitute subdivision assurances in a form approved as to substance by the town engineer and approved as to form by the town attorney, if the town manager and town engineer are satisfied that the substitute assurances protect the town to an extent equal to or greater than the original assurances.

C. Before release of assurances of or guarantees for construction or of improvements in existing or proposed public rights-of-way, including subdivisions or development master plans, the following listed documents shall be submitted, where applicable, to the town:

1. Formal acceptance/approval of applicable utilities.
2. Formal acceptance/approval of sewer line and manhole installation from the owner/operator of the wastewater utility.
3. Applicant's engineer/surveyor's record of bench marks set and elevations thereof, and certification that all monuments are in place as shown on final plat.
4. Certification by a professional engineer that construction has been completed in accordance with approved plans, specifications, and applicable town standards, as established by the town engineer, together with as-built mylars and digital copies for all construction accomplished, and so certified by the appropriate professional.
5. Copies of recorded documentation of all easements not dedicated by the plat.
6. Certification and as-built plans by a registered landscape architect that all landscape work has been completed in substantial conformance with approved plans, specifications, and applicable town standards.
7. Filled-out form for release of assurances.
8. Bill of sale to the town for installations to be accepted by the town.
9. Tabulation and verification of all fees paid to the town for plan and report reviews for construction permits; and payment of any remaining or additional review, permit or inspection fees as required.
10. Completed landscape licensing agreement for maintenance of landscaping in the public right-of-way, if applicable.
11. One-year warranty for all public infrastructure.

12. A pavement preservation assurance, in the amount and form satisfactory to the planning director and town engineer.

17-5-6 Minor land division

A. In general

1. For the purpose of this chapter, a minor land division shall consist of any of the following acts, and shall be subject to the provisions of this chapter:

   a. "Land splits" as defined in A.R.S. § 9-463.

   b. Any division of improved or unimproved land that is not a subdivision as defined in A.R.S. § 9-463.02, but is located on land that is subject to a condition of rezoning prohibiting further lot splits without the approval of the town and/or the council.

See A.R.S. § 9-463 defines "land splits" as "the division of improved or unimproved land whose area is two and one-half acres or less into two or three tracts or parcels of land for the purpose of sale or lease"

2. The preparation, submittal, review, and approval of all minor land divisions located within the town shall proceed through the following progressive stages, except when otherwise provided in this section:

   a. Pre-application conference with town planning and engineering staff.

   b. Submittal of the minor land division application and map by the land divider.

   c. Written approval of the application by planning director.

   d. Recordation of the approved minor land division.

3. Minor land divisions shall provide for the dedications of land, rights-of-way and easements, payment of fees and construction of those offsite and onsite improvements as necessary to protect the general health, safety and welfare of the public. Such improvements are required to implement the provisions of the general plan, transportation plan and the town's growth management objectives.

4. Actual construction of improvements to be made according to this Title shall not be required until a building permit or other grant of approval for development is issued by the town, except that as a condition of approval of a minor land division, the town may require such construction prior to the issuance of a building permit or other grant of approval for development upon its finding that such construction is or will be necessary at the time set because of the public health and safety, or because the construction is a necessary prerequisite to the orderly development of the surrounding area, and except that the land divider and the town shall enter into an agreement setting forth the time period within which the requirements shall be met.

B. Pre-application conference. The pre-application conference for a minor land division review is an investigatory period preceding the preparation and submittal of the minor land division application by the land divider. The land divider shall initially present his or her proposal to the Planning Department who shall advise the land divider of specific public objectives, standards, and regulations related to the property and the procedure for minor land division review.

C. Minor land division design standards and requirements. Except where expressly modified or permitted by planning staff, all minor land divisions shall be in general conformity with the lot, street, block, alley, and easement design standards and requirements specified for subdivisions in subsection 17-5-3C. All lots created by a minor land division shall conform to existing zoning and the town general plan and any applicable area or specific plans.

D. Minimum required minor land division improvements

1. Except where otherwise provided in this section, it shall be the responsibility and duty of the land divider to improve or agree to improve all streets, pedestrian ways, alleys, and easements in the minor land division and adjacent thereto required to service the minor land division, and such other improvements as specified for subdivisions in 17-5-3B and 17-5-3C of this chapter. Improvements shall be installed to the permanent line and grade to the satisfaction of the town engineer.

2. Minor land division improvements shall not be required as a condition of approval for minor land divisions in the following situations:

   a. In any case when the planning director and town engineer determines that the improvement of the abutting street or the installation of the other normally required improvements would be impractical because of considerations such as, but not limited to: type and extent of existing street improvements; inability to establish a proper street grade or alignment; physical barriers such as excessive grade of terrain or washes, ditches, canals, buildings or other structures; or other special circumstances where, in the opinion of planning and engineering staff, the immediate installation of the improvements is not deemed necessary to protect the public health, safety and general welfare, and that the waiver of the improvement requirements would not impair the purpose and intent of this title.

   b. The planning director may require, as a condition for the waiver of the required minor land division improvements, the execution of an acceptable form of assurance to the town attesting that the owner(s), and their heirs, successors, or assigns agree that they will participate in the cost of the

improvements abutting their property at a later date whenever it is deemed necessary by the Town based upon future development in the immediate area.

E. Minor land division applications

1. Application submittal:

a. The land divider shall submit the following materials to the planning department for review:

i. Five copies of the minor land division map reproduced in the form of blue or black line prints on a white background.

ii. Completed minor land division application and supplemental forms.

iii. A title report (updated to within 30 days).

iv. A nonrefundable minor land division application filing fee to compensate the town for the costs of examining and processing the minor land division application. (The required fee for minor land division applications shall be approved by resolution of the council).

b. All submittals shall be checked by planning staff for completeness. If incomplete as to the requirements set forth in this title, the submittal may be rejected and returned to the applicant for revision and resubmittal.

2. Application requirements:

a. Every minor land division shall be designed to comply with the requirements of the specific zoning district within which it is located.

b. No lot or parcel shall be divided in such a way that any the division of such lot or parcel shall contain more dwelling units than are permitted by the zoning regulations for which district such applicable to the lot is situated.

c. Any information required as part of the minor land division submittal shall be shown graphically, or by note on plans, or by letter, or by combination thereof, and may comprise several sheets showing various elements of the required data.

d. All minor land division maps shall contain the following information:

i. Notation of the map as "A minor land division map for (land-divider's name)."

ii. Location by quarter-section, section, township, and range.

iii. Legal description of the property involved.

iv. Name, address, and phone number of land -divider.

v. Scale, north arrow, and dates of preparation and revisions.

vi. Existing street dedications, utility easements, and lot lines of all adjacent properties must be indicated by subdivision name and recorder's book and page numbers; unsubdivided land must be identified as such.

vii. Name, address, registration number, and seal of the registered land surveyor preparing the map.

viii. Boundaries of the tract to be divided fully balanced and closed, showing all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.

ix. Location and description of cardinal points of primary interest to which all dimensions, angles, bearings, and similar data on the map shall be referenced. One corner of the minor land division map shall be tied by course and distance to a survey monument approved by the town.

x. All existing and proposed drainage structures, known floodplains and natural drainage features, as required by the town.

xi. All existing irrigation structures on the property.

xii. Location and dimensions of all lots within the minor land division map. All sides of the proposed lots shall be identified by bearings and distances.

xiii. All lots shall be identified by number or letter.

xiv. Proposed and existing street dedications and public utility easements shall be identified by course, length, and width.

xv. The following certifications must be included on the minor land division map:

a) Certification by a registered land surveyor preparing the map that the map is correct and accurate, and that the monuments described in it have been located as described.

b) Certification of map approval by the planning director and town engineer.

3. Application approval:

a. The land divider shall submit all of the documents, information, data, and other requirements for minor land division application approval to the planning department and shall furnish any additional information and materials relevant to the application that planning staff reasonably

believes is necessary in order to understand the subject matter of the application and to ensure compliance with the requirements of this title. Compliance shall be determined by the planning director.

b. The planning director shall approve, modify or disapprove applications for minor land divisions pursuant to the provisions of this title. The procedures for approval, modification, or disapproval of minor land division applications shall be as follows:

i. Approval:

a) If the planning director approves the minor land division application, the town shall transcribe a certificate of approval upon the map, first making sure that: (1) all conditions of approval have been complied with; (2) the other required certifications have been duly signed; and (3) that any instruments for required street right-of-way dedications have been prepared, executed, and duly recorded.

b) After approval of the minor land division, certification of approval by the town and compliance with subsections 17-5-6F and 17-5-6G hereof, the applicant shall pay to the town the fee charged by the recorder for the recordation of the map, and the town shall then promptly record the map with the recorder.

ii. Modification: If the planning director finds that the minor land division application requires modification, the land divider will be furnished a letter stating the reasons for the necessary modification. Such modification(s) must be completed within 45 days of the letter or the land split will require a new submittal.

iii. Denial:

a) If the planning director disapproves or denies the minor land division application, the land divider will be furnished a letter stating the reasons for the denial. The application may be re-filed without additional fee if suitable revisions can be made to resolve the conflicts noted by planning staff as originally proposed without additional fee and if the application is re-filed within 45 calendar days of the planning director's action.

b) An applicant may appeal a final action by the planning director pursuant to subsection 17-5-6H of this chapter.

F. Engineering plans for minor land division

1. If improvements are required for minor land divisions pursuant to paragraph D of this section, the applicant shall be responsible for the preparation of a complete set of engineering plans, prepared by an Arizona registered civil engineer, satisfactory to the town engineer for the construction of the required improvements. The plans shall be prepared in conjunction with the minor land division map.

2. The minor land division map shall not be recorded until all engineering plans for the recorded improvements have been approved by the town engineer.

G. Assurance for the construction of minor land division improvements. If improvements are required for the minor land division pursuant to paragraph D of this section, no building permit for any lot created will be issued until such improvements are completed and the work accepted by the town engineer. Required improvements may be waived by the Town if the land divider provides the appropriate (cash or bond) improvement assurance or if all such required improvements have been completed, paid for and accepted, as determined by the town engineer.

H. Minor land division appeal

1. Any person aggrieved by a decision of the planning director regarding a minor land division may appeal to the planning commission within ten days of such decision by the planning director. The appeal shall be filed with the chairman of the planning commission and shall describe the reasons for, and details of, the appeal. The planning commission shall act upon the appeal within 45 days of the date upon which the appeal is filed.

2. Any person aggrieved by the decision of the planning commission may appeal to the council within ten days of the planning commission's decision. The notice of appeal and all papers constituting the record in the action shall be transmitted forthwith to the council. The council shall hear, review and decide the application within 45 days of the date upon which the appeal is filed.

3. Findings of the council shall be incorporated into the plat or map and, if found necessary by the council, the plat or map shall be resubmitted for review by the planning director, to assure conformity to the council's decisions and other requirements.

17-5-7 Modifications to requirements of chapter

A. Where, in the opinion of the council, there exists extraordinary conditions of topography, land ownership, or adjacent development, or other circumstances not provided for in these regulations, the council may modify the provisions of this chapter

in such manner and to such extent as it may deem appropriate to the public interest. The burden of proof for council determination of a modification rests with the subdivider and/or land divider.

B. In modifying the standards or requirements of these provisions, as outlined above, the council may make such additional requirements as appear necessary, in its judgment, to substantially secure substantially the objectives of the standards or requirements so modified.

17-5-8 Violations and penalties

A. It shall be a misdemeanor to record or attempt to record a subdivision plat or minor land division map with the county recorder if such plat or map includes any land within the town and such plat or map has not been given approval by the town.

B. It shall be a misdemeanor to attempt to achieve a minor land division or to achieve a minor land division or to attempt to establish a subdivision or to establish a subdivision of any land within the town without first having obtained the approval of the town as provided for by this chapter.

CHAPTER 17-6. GENERAL DEVELOPMENT REGULATIONS

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17-6-1 Nonconforming structures and land uses

A. Continued use. The owners of land and structures shall not be deprived of the use of any property for the purpose to which it was lawfully devoted at the time of the enactment of this code because of any provision of this code. Nonconforming buildings or structures or land uses may be continued to the same extend and character as that which legally existed on the effective date of this code and any regulations derived from it. Repairs may be made to a nonconforming building or structure or to an existing building or structure housing a nonconforming use.

B. Limitations on enlargement. Any nonconforming but otherwise legal use within a building may be expanded within the same building in which said use is located, provided that: (1) no substantial modifications are made in the building; or (2) the increase or expansion is required to comply with an order to improve issued by a health or safety official acting in their official capacity.

C. Restoration of damaged buildings. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, or other calamity or act of nature may be restored, and the building or structure or use of such building, structure, or part thereof may be continued or resumed provided that such restoration is started within a period of one year from the date of destruction or damage and is diligently prosecuted to completion. Such restoration shall not increase the floor space devoted to the nonconforming use over that which existed when the building became nonconforming, and such exemption from conforming to this code shall only be to the extent that the building did not conform in the past.

D. Discontinuance or abandonment. A nonconforming building or structure or portion thereof, or a lot or parcel occupied by a nonconforming land use, which is or which hereafter becomes abandoned or which is removed from use for a continuous period of one year or more shall not thereafter be occupied except by a use which conforms to the regulations of the zone in which it is located.

E. Change to a conforming use. Any nonconforming building or structure or land use that has been changed to a conforming building or structure or land use shall not thereafter be changed back to a nonconforming building, structure, or land use.

F. Change to another nonconforming use. A nonconforming use of a building or structure shall not be changed to another nonconforming use. Changes in use shall be permitted only to a conforming use.

17-6-2 Relationships to streets, other structures, and other property

A. Clear view of intersecting streets. On all lots or parcels of land on which a front setback is required, no obstruction that will obscure the view of motor vehicle drivers shall be placed within the triangular area formed by the adjoining street property lines and a line connecting them at points of 45 feet from the intersection of said street property lines, except that trees may be permitted within said triangular area provided that those trees are placed in the street planter strip and the limbs are pruned to at least six feet above the grade level of the adjacent street.

B. Effect of street plan. Wherever a front or side setback is required for a building or structure, and where the lot on which said

building or structure is located abuts on a proposed street that has not yet been constructed but which has been designated on the Town's General Plan or an appropriate area or subject plan as a future street, the depth of such front or side setback shall be measured from the planned right-of-way line and not from the existing property line.

C. Drainage. Surface water shall not be allowed to drain from any lot onto any adjacent lot, parcel, or easement, except upon written agreement with the owner of said adjoining lot, parcel, or easement.

17-6-3 Sewage sludge restriction.

The application of sewage sludge to the surface or within eight inches of the surface of any land within one quarter mile of any human residence shall be prohibited, except where written permission to do so has been obtained from the owner of said residence and filed with the town clerk.

17-6-4 Height of buildings and structures

No building or structure, with the exception of a fence or wall that is not higher than six feet in height and which is not part of a building, shall be allowed to extend to a height greater than the shortest distance for the base of the building or structure to the nearest point on the closest property line of the lot on which said building or structure is situated.

17-6-5 Clear view of intersecting streets

No obstruction which will obscure the view of motor vehicle drivers shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points of 45 feet from the intersection of adjacent street right-of-way lines.

17-6-6 Home occupations

A. A home occupation shall be permitted only pursuant to an approved home occupation permit issued by the planning director.

B. A home occupation shall not exceed 25% of the gross floor area of a dwelling.

C. Except as provided in the following paragraph, a home occupation shall not employ anyone who does not reside in the residence containing the home occupation.

D. A home occupation that employs a person who does not reside in the home where the home occupation is located is a conditional use in any zone where a home occupation is permitted, and subject to the conditional use permit procedure set forth in section 17-3-2.

E. A home occupation shall not display on-site advertising or identification signs or have external evidence of the conduct of the home occupation.

F. A home occupation shall maintain the required residential off-street parking, shall not create off-street or on-street parking, vehicular or pedestrian traffic which is greater than that normally associated with a solely residential use of the premises on which the home occupation is conducted.

G. A home occupation shall not create conditions that are a nuisance to neighboring properties.

H. Equipment used by or in connection with a home occupation which is visible from off-site or which creates audible interference in radio and television receivers or causes fluctuations in line voltage outside the dwelling using it is prohibited.

17-6-7 Location of gasoline pumps

A. Gasoline pump islands and similar facilities for the dispensing of flammable materials, including diesel fuel, propane, and butane, shall be set back not less than:

1. Eighteen feet from any street right-of-way line to which the pump island is perpendicular; and

2. Twelve feet from any street right-of-way line to which the pump island is parallel; and

3. Twelve feet from the property line of any residential lot.

B. If the pump island is set an angle on its lot, it shall be so located that motor vehicles stopped for service shall not extend over the property line of the lot.

C. In no case shall pumps be set closer than 12 feet to any side or rear lot line.

D. Lots from which gasoline or similar flammable fluids are dispenses to customers at retail or wholesale shall be not less than 75 feet in width and not less than 100 feet in length.

E. All approaches to gasoline pumps or similar facilities shall be paved to a distance of no less than 18 feet from the pumps or to the nearest property line, whichever distance is smaller.

17-6-8 Motor vehicle access

Access to all lots and parcels of land having frontage on public street shall be controlled as follows:

A. Access shall be by not more than two driveways from any one street.

B. Driveways shall not be closer to each other than 20 feet except where a greater distance may be required by other provisions of this code.

C. Each driveway shall be not more than 30 feet in width, measured at right angles to the center line of the driveway, except as that distance may be increased by permissible curb return radii.

D. On corner lots, no driveway shall be closer than 35 feet to the point of intersection of the right-of-way lines of the intersection.

17-6-9 Irrigation lines and ditches

Irrigation channels, ditches or lines. Before a permit can be issued for development or doubling the enterprise density of parcels or lots with an irrigation channel, ditch or line either within the parcel or lot or adjacent thereto within perimeter easements or the nearest half of a street or alley right of way, such irrigation facilities shall be undergrounded in accordance with a plan and schedule acceptable and agreed upon by the town engineer, the subdivider and the owner of the irrigation facilities. Such undergrounding shall be done in accordance with town standards.

17-6-10 Nuisance uses prohibited

A. Purpose and scope: The purpose of this section is to promote the health, safety, economic, aesthetic and general welfare of the citizens of the town, and to protect neighborhoods against nuisances, blight and deterioration, by establishing requirements for the maintenance of all land, whether improved or vacant. This section shall apply to all lands within the town, without regard to zoning or use.

B. Composting prohibited: No person shall compost or permit the composting of organic waste; manure; tree, grass or shrub clippings; grease; bio-solids, or other similar material on any property within the town limits except for composted material that is utilized directly on the property from which it is composted.

C. Tire storage prohibited: Other than by a bona fide commercial entity, engaged in the retail sale of used tires, property licensed and operating, no person shall store, or allow the storage of, used automobile, truck or other vehicle tires in a quantity greater than can be used by such person on the vehicles owned by such person. In no event, shall any person store, keep or maintain used tires outside a completely enclosed structure on any property within the town limits.

D. Grease ponds prohibited: No person shall allow a grease pond or open grease storage facility to be maintained on any property within the town limits.

E. Similar uses prohibited. The planning director may determine other similar uses to be a nuisance, and is hereby authorized and directed to make inspections in the normal course of job duties; or in response to a complaint that an alleged violation of the provisions of this chapter; or when there is reason to believe that a violation of this title has been or is being committed.

17-6-11 Specifications for the installation of fiber optics.

A. Fiber optic cables or lines installed within the municipal limits of the town shall not be installed as a direct bury cable.

B. All fiber optic cables or lines shall be installed within a conduit of at least one inch PVC or other approved material. At the time of initial installation, one extra conduit of at least one inch PVC or other approved material for future expansion shall also be installed.

C. New conduit installation designated for fiber optic cables or lines shall be encased in a minimum of six inches of concrete on all sides of the conduit or conduits. New installations shall have a minimum of four feet of cover on the top of the concrete encasement. A magnetic warning tape shall be placed two feet above the encasement, which shall include a written message indicating the presence of fiber optics in the conduit systems installed, even if they are initially intended to carry standard copper wire cables.

D. If that fiber optic cables or lines are to be installed in existing conduit systems, the installation thereof shall comply with the specifications in the foregoing subsection.

E. All installations of fiber optic cables or lines, whether in new conduit installations or existing conduit installations, shall require a permit.

F. Upon the submission of plans and the application for a permit, it shall be clearly noted thereon by the applicant that fiber optic cables or lines are to be installed pursuant to the permit being requested.

G. Whenever the town, private consultants or entities, or other agencies request any information on existing utilities to be used on the preparation of improvement or development or other plans, existing fiber optic cables or lines shall be clearly indicated on information furnished by the applicable utility company.

H. Any of the foregoing plans prepared shall include a special warning of sufficient size and placed on the plans in such a way that contractors will be aware of the presence and existence of fiber optic cables or lines.

I. Any fiber optic cables or lines installed within the town shall be located in the field, during construction, as part of the "Blue Stake" program.

J. Any locations marked on the ground surface shall include special notations that will adequately indicate the existence of fiber optic cables or lines to the contractor.

17-6-12 Animal keeping and related structures

A. Location of structures to house animals. No barn, shed, corral, fence, or other structure for the housing of confinement of bovine or equine animals or swine, or for more than three-hoofed animals of any other kind, shall be erected, constructed, or moved to within 100 feet of a human residence, except the residence of the owner of any of the aforementioned animals that are maintained on that owner's land.

B. General maintenance

1. Animal keeping and related structures shall be arranged, conducted and or maintained so that:

   a. The animal keeping area is completely enclosed within an approved fence consistent with the quantity, age, and disposition of the animal(s) being kept.

   b. Construction materials are non-toxic.

   c. Insects, vermin, odors, noises, manure, garbage and or other noxious materials or practices do not compromise the public's health.

   d. No condition of said use or structure restricts the rights of the adjacent property owner to enjoy the use of their property.

   e. Adequate water facilities are provided that prevent ponding of water.

   f. Feeding occurs on impervious surfaces, as appropriate.

   g. Frequent or continuous barks, squawks, and or other animal related sounds are not audible to adjacent residential structures.

   h. Generation of dust is minimized.

   i. Outdoor lighting does not generate glare in the direction of streets and or adjacent properties; and is consistent with the town lighting code.

2. Any person keeping animals shall ensure:

   a. Animals are provided with food of sufficient quality and quantity, and food is appropriate to the species, disposition, and age of the animal.

   b. Water is available at all times.

   c. Animals have convenient access to a structure which provides shade from direct sun light.

   d. Animal structures are designed to minimize the spread of disease.

   e. Animals are provided with sufficient medical treatment and care.

f. Opportunity for periodic exercise, under appropriate control, sufficient to maintain good health.

g. Animal keeping structures are designed to minimize the risk of animal injury and are of a size of space conducive to the animal's good health.

h. Tie-outs are located so that they cannot become entangled.

i. Manure is removed from any animal keeping structure or area in a timely manner and handled or disposed of in a manner free of health hazard or nuisance. Mound storage shall not be permitted on a lot less than five acres and shall not be allowed to drain, contaminate, or pollute any watercourse or riparian area.

j. Animals have access to a structurally sound, properly ventilated, sanitary and weatherproof structure which provides relief from exposure to severe weather conditions and is suitable for the species, conditions and age of the animal(s) being kept.

k. Any public and or commercial animal keeping practice provides a schedule for cleaning and maintaining structures. Said schedule shall be posted on or near the structure being maintained in a manner clearly visible to the public.

l. No rental animal including, but not limited to, horses and mules, shall work more than eight hours a day. There shall be a rest period of a minimum of 15 minutes for every two working hours. During such rest periods, the person in charge of such rental animal shall make sufficient fresh water available.

3. Nothing in this section shall be deemed to prohibit the use of animal manure or droppings on any farm, garden, lawn or ranch in a manner compatible with customary methods of good horticulture.

4. Slaughtering for purposes other than for owner's consumption shall be prohibited in all residential districts.

C. Development standards. Unless otherwise noted; the regulation of animal densities permitted within this subsection shall not apply to un-weaned animals or household pets. Certain omissions to the following subsection regulations may be made when animal keeping and related structures are sponsored by the 4-H club, future farmers of America or other similar nonprofit organization, provided that a letter of authorization from the sponsoring organization is submitted to the town acknowledging that the project is in fact sponsored by the organization, describing the project and stating its length of time.

1. Apiaries

a. Beekeeping is prohibited in residential zones and or any lot less than five acres. The keeping of any bees shall require the construction of an apiary.

b. Colonies shall be maintained in movable-frame hives.

c. Hives shall be erected using a hive stand which separates the hive's bottom boards from directly contacting the ground.

d. Colonies shall be maintained to reasonably prevent undue swarming or aggressive behavior.

e. Colonies shall be re-queened following any swarming or aggressive behavior.

f. Four colonies shall be permitted for every 10,000 square feet of parcel area.

g. Apiaries shall be set back a minimum of 100 feet from any adjacent residential property line and a minimum of 60 feet from all other property lines.

2. Aviaries

a. The practice of bird keeping within a primary structure shall be limited to 15 birds and shall not require the construction of an accessory structure and/or aviary.

b. The keeping of more than 100 hundred birds is prohibited in and/or adjacent to a residential district.

c. No person shall keep birds outside of their primary structure without erecting an aviary.

d. A minimum of 1.5 square feet shall be provided for each bird.

e. Except in the AG zone, aviary length or width shall not exceed 50 linear feet, nor shall the height exceed the maximum height for structures of the applicable zoning district.

f. A single aviary shall not exceed 2,000 square feet.

g. Perches shall be provided for perching species in a manner that allows the bird(s) to stretch to its full height without its head touching the top, or its tail touching the bottom, of the aviary.

h. Aviaries shall be set back a minimum of 60 feet from any property line.

i. A minimum of 20 feet shall be provided between any residential structure and aviary.

3. Stables, private

a. Minimum lot size shall be one acre.

b. One animal shall be permitted for every 10,000 square feet of lot area.

c. Animals shall be confined within a stock-tight fence or corral.

d. Stables shall be setback a minimum 60 feet from all property lines.

e. Corrals shall be setback a minimum 30 feet from the front property line.

f. A minimum of 400 square feet of fenced area shall be provided for each animal.

4. Stables, public

a. Minimum lot size shall be five acres.

b. All animal structures shall be set back a minimum of 200 feet from any adjacent residential property line and 100 feet from all other property lines.

c. Corrals shall be set back a minimum of 30 feet from front property line.

d. A minimum of 400 square feet of fenced area shall be provided for each animal.

5. Kennels

a. Minimum lot size shall be one acre.

b. Structures shall be set back a minimum of 60 feet.

c. Fenced area accessory to the kennel (such as but not limited to a dog run) shall be set back a minimum of 30 feet from any property line.

6. Fowl

a. Minimum lot size shall be one acre.

b. A maximum of 40 animals per acre shall be permitted.

c. Structures shall be set back a minimum of 60 feet from any property line.

7. Livestock, large

a. Minimum lot size shall be one acre.

b. One animal shall be permitted for every 10,000 square feet of lot area.

c. Animals shall be confined within a stock-tight fence or corral.

d. Animal structures shall be set back a minimum of 60 feet from all property lines; corrals shall be set back a minimum of 30 feet from front property line.

e. A minimum of 400 square feet of fenced area shall be provided for each animal.

8. Livestock, small

a. Minimum lot size shall be one acre.

b. One animal shall be permitted for every 5,000 square feet of lot area.

c. Animals shall be confined within a stock-tight fence or corral.

d. Animal structures shall be set back a minimum of 60 feet from all property lines; corrals shall be set back a minimum of 30 feet from front property line.

e. A minimum of 200 square feet of fenced area shall be provided for each animal.

9. Ratites

a. Minimum lot size shall be two acres.

b. One ratite shall be permitted for every 10,000 square feet of lot area.

c. Animals shall be confined within minimum six-foot-high stock-tight fenced corrals.

d. The minimum setback for structures shall be 60 feet from any property line; the minimum setback for corrals is 30 feet from any property line.

10. Riding arena, rodeo grounds

a. Minimum lot size shall be three acres for commercial and or public arenas and grounds.

b. Minimum lot size shall be one acre for arenas and grounds for private recreation and training.

c. Minimum required setbacks for all arenas and or rodeo facilities such as but not limited to a chute shall be 100 feet from any property line.

d. A minimum of 400 square feet of fenced arena or grounds shall be provided for each animal.

e. Rodeo grounds practices and maintenance shall be consistent with the Pima County 4-H and FFA Livestock and Small Stock Show Code of Ethics.

11. Rodents

a. Minimum lot size shall be one acre.

b. A maximum of 40 animals per acre shall be permitted.

c. Structures shall be set back a minimum of 60 feet from any property line.

12. Swine

    a. Minimum lot size shall be one acre.

    b. One swine per acre shall be permitted for a parcel smaller than five acres.

    c. The minimum setback for a swine related structure and or pen on a lot less than five acres shall be 100 feet from any property line.

    d. On a parcel five acres or greater, all swine related structures and or pens shall be located on the half of the property opposite of the highest classified street adjacent to the subject property.

    e. The minimum required setback for any pen or structure on a lot containing five or more swine shall be 300 feet from any property line.

    f. The keeping of five or more swine shall be prohibited within a residential district.

17-6-13 Building height increase

A. Building heights may be permitted to increase a maximum of 20% as allowed the applicable zoning district, subject to the review and approval of the council.

B. The acceptance of the increased building height must be supported by written documentation and graphics on how the proposed project is a superior project and provides increased development standards and at a minimum, but not limited to, address all of the following:

    1. The proposal is consistent with the general plan.

    2. With the exception of the requested building height increase, the proposal complies with the town code, including the land development code.

    3. The site is of a sufficient size and configuration to accommodate the design and scale of proposed development, including buildings and elevations, landscaping, parking and other physical features of the proposal.

    4. The design, scale and layout of the proposed development will not unreasonably interfere with the use and enjoyment of the future residents and the neighboring existing or future developments, will not create traffic or pedestrian hazards, and will not otherwise have a negative impact on the aesthetics, health, safety or welfare of neighboring uses.

    5. The architectural design of the proposed development is compatible with the character of the surrounding neighborhood, will enhance the visual character of the

neighborhood, and will provide for the harmonious, orderly and attractive development of the site.

6. The design of the proposed development will provide a desirable environment for its occupants, the visiting public and its neighbors through good aesthetic use of materials, texture, and color that will remain aesthetically appealing and will retain a reasonably adequate level of maintenance.

7. The building height increase on the proposed development is compatible with and enhances the design of existing buildings and other physical features of the site.

8. The building height increase will not adversely affect viewsheds.

C. Building height increase procedure

1. An applicant shall submit all of the documents, exhibits, information, data, and other requirements for building height increase approval to the planning department and shall furnish all information and materials needed to satisfy the requirements of this section.

2. The applicant shall provide the planning director any additional information, documents, or other material relevant to the application that planning staff reasonably believes is necessary in order for the council to evaluate, analyze, and understand the subject matter of the application.

3. An application for building height increase shall not be deemed to have been filed or properly submitted until all of the above listed requirements have been complied with, as determined by the planning director.

4. Upon receipt of all required information, planning staff shall prepare a recommendation on an application for building height increase and the planning director shall place the application to the agenda of the next available regular meeting of the council or include the request in conjunction with the council's review of a proposed preliminary plat.

5. The council shall consider an application for building height increase in a public meeting, but the item may be on the consent portion of the agenda or taken in conjunction with the approval of a preliminary plat.

17-6-14 Medical marijuana dispensary

A. The minimum requirements of this section shall apply to any "medical marijuana dispensary" located in any zoning district.

B. In addition to any other application requirements, an applicant for any "medical marijuana dispensary" conditional use permit shall provide the following:

1. A notarized authorization executed by the property owner, acknowledging and consenting to the proposed use of the property as a medical marijuana dispensary.
2. The legal name of the medical marijuana dispensary.
3. The name, address, and birth date of each officer and board member of the nonprofit medical marijuana dispensary.
4. A copy of the operating procedures adopted in compliance with A.R.S. § 36-2804 (B) (1) (c).
5. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has been convicted of any of the following offenses:
   a. A violent crime as defined in A.R.S. § 13-901.03 (B) that was classified as a felony in the jurisdiction where the person was convicted.
   b. A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted except an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten or more years earlier or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. § 36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the state of Arizona.
6. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has served as an officer or board member for a medical marijuana dispensary that has had its registration certificate revoked.
7. A floor plan showing the location, dimensions and type of security measures demonstrating that the medical marijuana dispensary will be secured, enclosed, and locked as required by law.
8. A scale drawing depicting the property lines and the separations from the nearest property boundary of the parcel containing the medical marijuana dispensary to the property boundary of the parcel containing any existing uses listed in paragraph D below. If any of the uses are located within 50 feet of the minimum separation, the drawing, showing actual surveyed separations, shall be prepared by a registered land surveyor.
9. A notarized acknowledgment of the requirements of Pima county code chapter 8.80 ("medical marijuana").

C. A medical marijuana dispensary shall:

1. Be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.

2. Not have drive-through service.
3. Not emit dust, fumes, vapors or odors into the environment.
4. Prohibit consumption of marijuana on the premises.
5. Not have outdoor seating areas.
6. Display a current town of Marana business license applicable to a medical marijuana dispensary.
7. Have operating hours not earlier than 7:00 a.m. and not later than 7:00 p.m.

D. A medical marijuana dispensary shall meet the following minimum separations, measured in a straight line from the boundary of the parcel containing the medical marijuana dispensary to the property boundary of the parcel containing any existing uses listed below:

1. 2,000 feet from any other medical marijuana dispensary or medical marijuana dispensary offsite cultivation location.
2. 2,000 feet from a residential substance abuse diagnostic and treatment facility or other residential drug or alcohol rehabilitation facility.
3. 1,000 feet from a public, private, parochial, charter, dramatic, dancing, music, learning center, or other similar school or educational facility that caters to children.
4. 1,000 feet from a childcare center.
5. 1,000 feet from a public library or public park.
6. 1,000 feet from a church.
7. 1,000 feet from a facility devoted to family recreation or entertainment.

E. A medical marijuana dispensary offsite cultivation location is prohibited within the town limits.

F. The number of medical marijuana dispensaries permitted within the town limits of Marana shall be limited to two. The number of permitted medical marijuana dispensaries shall be increased by one for each Marana population increase of 50,000 over and above the official 2010 census figure for Marana.

CHAPTER 17-7. [RESERVED: FUTURE LOCATION OF THE RESIDENTIAL DESIGN STANDARDS CHAPTER]

CHAPTER 17-8. [RESERVED: FUTURE LOCATION OF THE COMMERCIAL DESIGN STANDARDS CHAPTER]

CHAPTER 17-9. [RESERVED: FUTURE LOCATION OF THE OFF-STREET PARKING AND LOADING CHAPTER]

CHAPTER 17-10. [RESERVED: FUTURE LOCATION OF THE SIGNS CHAPTER]

CHAPTER 17-11. [RESERVED: FUTURE LOCATION OF THE ENVIRONMENTAL RESOURCE CHAPTER]

CHAPTER 17-12. [RESERVED: FUTURE LOCATION OF THE CULTURAL RESOURCES CHAPTER]

CHAPTER 17-13. [RESERVED: FUTURE LOCATION OF THE GRADING CHAPTER]

CHAPTER 17-14. [RESERVED: FUTURE LOCATION OF THE HILLSIDE DEVELOPMENT CHAPTER]

CHAPTER 17-15. FLOODPLAIN AND EROSION HAZARD MANAGEMENT CODE

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17-15-1 General information

A. Statutory authorization. In A.R.S. § 48-3610, the Arizona legislature enabled the town to adopt regulations in conformance with A.R.S. § 48-3603 designed to promote the public health, safety and general welfare of its citizenry.

B. Findings of fact.

1. The flood hazard areas of the town are subject to periodic inundation which may result 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.

2. Flood losses may be exacerbated by the cumulative effects of obstructions to flow, inadequate anchoring of structures and encroachment into the floodplain. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage, also contribute to the flood loss.

C. Statement of 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:

1. To protect human life and health;

2. To minimize expenditure of public money for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To 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;

6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize blight areas caused by flooding;

7. To ensure that potential buyers are notified that property is in an area of special flood hazard;

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and

9. To maintain eligibility for disaster relief.

D. Methods of reducing flood losses. To accomplish its purposes, this chapter includes methods and provisions for:

1. 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;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards in other areas.

17-15-2 Abbreviations and definitions

A. Abbreviations. The following common abbreviations are used throughout this chapter:

1. ADWR: Arizona department of water resources
2. BFE: Base flood elevation
3. CFS: Cubic feet per second
4. CLOMR: Conditional letter of map revision
5. EHS(L): Erosion hazard setback or erosion hazard setback limit
6. FEMA: Federal emergency management agency
7. FFE: Finished floor elevation
8. FIA: Federal insurance administration
9. FIS: Flood insurance study
10. FIRM: Flood insurance rate map
11. LOMR: Letter of map revision
12. NGVD: National geodetic vertical datum of 1929
13. NAVD: North American vertical datum of 1988
14. SFHA: Special flood hazard area

B. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. All-weather access. Access considered traversable by normal passenger vehicles, defined as a permanent, durable material with adequate protection against scour and erosion and having a depth of water no more than 12 inches above the roadway surface during a base flood.
2. Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a floodplain variance.
3. Area of shallow flooding. A designated AO or AH zone on a community's FIRM with a one percent or greater annual chance of flooding to an average depth of one to three feet

where a clearly defined channel does not exist, where the path of flooding is unpredictable or where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

4. Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.
5. Base flood elevation (BFE). The water surface elevation associated with the base flood.
6. Basement. Any area of a building having its floor sub-grade (below ground level) on all sides.
7. Building. See "structure."
8. Conditions and restrictions. Standard requirements which are placed on a parcel of land, the development permit applicant and the parcel owner by the floodplain administrator as a condition of the applicant's or owner's use of the floodplain.
9. Community. Any state, area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
10. Critical facilities. Facilities that are considered critical in their need to remain serviceable during a major flood event or that their inundation by flood waters poses a high risk to the health, safety or welfare of the community.
11. Detention. A drainage system which delays the downstream progress of flood waters in a controlled manner, generally through the combined use of a temporary storage area and a metered outlet device which causes a lengthening of the duration of flow and thereby reduces downstream flood peaks.
12. Development. Any man-made 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, and storage of materials and equipment located within the area of special flood hazard.
13. Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
14. Erosion. The process of the gradual or avulsive wearing away of land masses due to the flow of water.
15. Erosion hazard setback (EHS). A prescribed horizontal distance measured from the primary channel bank of an incised channel or from the design storm's water surface limits for a non-incised channel for the purpose of providing a measure of safety against lateral erosion.

16. Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, construction of streets and either final site grading or the pouring of concrete slabs) is completed before the effective date of the floodplain management regulations adopted by the community.
17. Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).
18. Five hundred year flood (500-year flood). The flood having a 0.2% chance of being equaled or exceeded in any given year.
19. Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
    a. the overflow of flood waters;
    b. the unusual and rapid accumulation or runoff of surface waters from any source; and/or
    c. the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.
20. Flood boundary and floodway map (FBFM). The official map on which FEMA or FIA has delineated the areas of special flood hazards and the floodway.
21. Flood hazard boundary map (FHBM). The official map on which FEMA or FIA has delineated the areas of flood hazards.
22. Flood insurance rate map (FIRM). The official map on which FEMA or FIA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
23. Flood insurance study (FIS). The official report provided by FIA that includes flood profiles, FIRM, FBFM and the water surface elevation of the base flood.
24. Flood zones (FEMA defined):
    a. Zone X. Area free from a base flood

b. Zone X-500. Area free from a base flood due to a manmade protective structure or an area with base flood elevations or sheet flow elevations less than one foot. This area is also known as shaded zone X.

c. Zone A. SFHA with no base flood elevations determined.

d. Zone AE. SFHA with base flood elevations determined by the flood insurance study for Pima county.

e. Zone AH. SFHA with flood depths of one to three feet (usually areas of ponding); base flood elevations determined by the flood insurance study for Pima county.

f. Zone AO. SFHA with flood depths of one to three feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined. The FIRMs show the depth in one foot increments and velocities in one foot per second increments.

g. Zone AE floodway. That portion of a regulated watercourse's SFHA which must remain clear of any development. See also definition for floodway.

25. Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source. This includes FEMA special flood hazard areas, areas platted on accepted town plans as being flood prone or locally regulated areas that may be inundated by water during a base flood.

26. Floodplain administrator. The individual appointed to administer and enforce the floodplain management regulations. Unless otherwise stated, the town engineer is the floodplain administrator.

27. Floodplain board. The council, at such times as they are engaged in the enforcement of this chapter, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of the citizens of the town.

28. Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

29. Floodplain variance. A grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

30. Floodproofing. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or

improved real property, water and sanitary facilities, structures and their contents by means other than elevating.

31. Flood-related erosion. The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

32. Floodway. 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 a designated height. Also referred to as "regulatory floodway."

33. Floodway fringe. That area of the floodplain on either side of the "regulatory floodway" where encroachment may occur.

34. Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking or port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

35. Hardship. Related to section 17-15-11 (floodplain variances) of this chapter, means the exceptional hardship which would result from a failure to grant the requested floodplain variance. The floodplain board requires that the floodplain variance be exceptional, unusual and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a floodplain variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

36. Highest adjacent grade. The highest natural elevation of the ground surface prior to construction adjacent to the proposed walls of a structure.

37. Historic structure. Any structure that is:

    a. Listed individually in the national register of historic places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior

(secretary) as meeting the requirements for individual listing on the national register;

b. Certified or preliminarily determined by the secretary as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

i. by an approved state program as determined by the secretary; or

ii. directly by the secretary in states without approved programs.

38. Levee. A man-made structure designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

39. Locally regulated floodplain. Floodplains in the town associated with washes and/or sheet flow areas having a base flood discharge of 50 cfs or more.

40. Lowest floor. The lowest floor of the lowest enclosed area, including basement (see "basement" definition). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

41. Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

42. Market value. Market value is determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation that has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation

factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

43. Mean sea level. For purposes of the national flood insurance program, the NGVD or NAVD, to which base flood elevations shown on a community's FIRM are referenced.

44. New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

45. New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

46. Obstruction. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water or its likelihood of being carried downstream.

47. One-hundred year flood (100-year flood). A common name for the flood having a one percent chance of being equaled or exceeded in any given year. (See "base flood" definition)

48. Recreational vehicle. A vehicle that is:

    a. Built on a single chassis;

    b. 400 square feet or less when measured at the largest horizontal projection;

    c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

49. Regulatory flood elevation. An elevation one foot above the Base Flood elevation for a watercourse for which the base flood elevation has been determined or as determined by the criteria developed by the director of ADWR for all other watercourses.

50. Regulatory floodplain. An area associated with a watercourse, including its channel, or any other floodplain or floodprone area that would be inundated by the Base Flood, including all Base Floods where the 100-year peak discharge is 50 cfs or greater.

51. Regulatory floodway. (See "floodway" definition)

52. Repetitive loss structure. A structure covered by a contract for flood insurance issued pursuant to the FIA that has incurred flood-related damage on two occasions during any ten year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event. In addition to the current claim, the NFIP must have paid the previous qualifying claim.

53. Retention. A drainage system which stops the downstream progress of flood waters by employing methods of containment and storage and uses infiltration, evaporation or re-use to dispose of stored waters, thereby eliminating basin contributions to the downstream flood peaks or volumes.

54. Sheet flow area. (See "area of shallow flooding" definition)

55. Special flood hazard area (SFHA). An area defined by FEMA within a community subject to a one percent or greater chance of flooding in any given year (base flood). These areas are designated as Zone A, AO, AH and AE on the FIRMs, and other areas determined by the criteria adopted by the director of ADWR.

56. Start of construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/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 part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

57. Structure. A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. "Structure" for insurance coverage purposes means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such a construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

58. Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a rolling ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

59. Substantial improvement. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

    a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,

    b. Any alteration of a "historic structure", provided that the alteration would not preclude the structure's continued designation as a "historic structure".

60. Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management

regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this chapter is presumed to be in violation until that documentation is provided.

61. Water surface elevation. The height, in relation to the NGVD or NAVD of floods of various magnitudes and frequencies in the floodplains of riverine and ponding areas. See also base flood elevation.

62. Watercourse. A lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur (e.g. the regulatory floodplain).

17-15-3 General provisions

A. Lands to which this chapter applies. This chapter shall apply to the following lands within the corporate limits of the town:

1. All special flood hazard areas as defined by FEMA.

2. FEMA zone X-500, also known as shaded zone X, as it pertains to alluvial fan or sheet flooding.

3. Local floodplains associated with washes and/or sheet flow having a base flood discharge of 50 cfs or more.

4. Areas within the erosion hazard setback of a watercourse.

5. All floodplains/flood-prone areas and erosion hazard setbacks identified on previously and subsequently recorded subdivision plats.

6. All floodplains/flood-prone areas and erosion hazard setbacks identified on previously and subsequently drainage studies commissioned by the town engineer.

B. Basis for establishing the areas of special flood hazard.

1. The regulated areas of this chapter as outlined in subsection A of this section are derived from a variety of sources, whose hydrologic and hydraulic data and maps of delineation are kept on file by the town at 11555 West Civic Center Drive, Marana, AZ 85653, Marana municipal complex, public works department. This information includes or will include:

a. The area of special flood hazard identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Pima County Arizona and incorporated areas, revised February 8, 1999," with accompanying FIRMs dated February 8, 1999 and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. The FIS, FIRMs FBFM and amendments and corrections to the maps are all kept on file.

b. The FIS and FIRMs may be supplemented by studies for other areas that allow implementation of this chapter. The floodplain board, within the limits of the town, shall require developers to delineate, within areas where development is ongoing or imminent, floodplains consistent with the criteria developed by FEMA, the director of water resources and the town.

c. Due to the episodic nature of natural flood events and the resulting changes to hydrologic and hydraulic conditions along watercourses within the town, base flood peak discharges, flow volumes, and associated regulatory floodplain and erosion hazard areas are subject to continuous revision. At a minimum, base flood values and base flood elevations shall meet or exceed the current values established by FEMA and reflect historic flood information and general, current watershed conditions. Current regulatory floodplain and erosion hazard area maps will be maintained by the floodplain administrator for the Santa Cruz river and all watersheds which generate regulatory flood peak discharges exceeding 5,000 cfs for the base flood. These watersheds are listed in appendix 1 of this chapter.

d. The floodplain administrator may accept hydrologic and hydraulic studies prepared by an Arizona registered professional civil engineer as a delineation of regulatory floodplain and erosion hazard setback areas.

e. In all cases the most recently accepted information shall be used for floodplain management.

C. Compliance. All development of land, construction of residential, commercial or industrial structures, or future development on lands to which this chapter applies is subject to the terms of this chapter and other applicable regulations.

D. 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 ordinance, easement, covenant or deed restriction conflict or overlap, the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the town; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. 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 man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas 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, its officers or employees, the state of Arizona, NFIA or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under this chapter.

17-15-4 Statutory exemptions

A. In accordance with A.R.S. § 48-3609(H), unless expressly provided otherwise, this and any regulation adopted pursuant to this chapter do not affect:

1. Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for 12 months, or destroyed to the extent of 50% of its value as determined by a competent appraiser, any further use shall comply with this article and regulations of the town;

2. Reasonable repair or alteration of property for the purposes for which the property was legally used on July 9, 1974, or any regulations affecting such property takes effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by 50% or more shall be either floodproofed or elevated to or above the regulatory flood elevation;

3. Reasonable repair of structures constructed with the written authorization required by A.R.S. § 48-3613; and

4. Facilities constructed or installed pursuant to a certificate of environmental compatibility issued pursuant to A.R.S. title 40, chapter 2, article 6.2.

B. Before any authorized construction begins for the exceptions listed below, the responsible person shall submit plans for the construction to the floodplain board for review and comment. In accordance with A.R.S. § 48-3613, written authorization shall not be required, nor shall the floodplain board prohibit:

1. The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse;

2. The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage to adjoining land if the structure will not divert, retard or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by A.R.S. title 45, chapter 6;

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 that will divert, retard or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the floodplain board pursuant to regulations adopted by the floodplain board under this chapter;
4. Other construction upon determination by the floodplain board that written authorization is unnecessary;
5. Any flood control district, county, city, town or other political subdivision from exercising powers granted to it under A.R.S. title 48, chapter 21, article 1;
6. The construction of streams, waterways, lakes and other auxiliary facilities in conjunction with development of public parks and recreation facilities by a public agency or political subdivision; and
7. The construction and erection of poles, towers, foundations, support structures, guy wires and other infrastructure related to power transmission as constructed by any utility whether a public service corporation or a political subdivision. Buildings, stations, and other similar structures however must comply with standards set forth in this code for non-residential structures.

C. In addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this section or regulations adopted pursuant to this article. If a person is found to be in violation of this section, the court shall require the violator to either comply with this section if authorized by the floodplain board or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

17-15-5 Unlawful acts

A. It is unlawful for a person to engage in any development or to divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property without securing the written authorization required by A.R.S. § 48-3613. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.

B. Any person violating the provisions of this chapter shall be guilty of a class 2 misdemeanor. Each day that a violation continues shall be considered a separate offense.

17-15-6 Declaration of public nuisance

Every new structure, building, fill, excavation or development located or maintained within any special flood hazard area after August 8, 1973, in violation of this chapter, and without written authorization from the floodplain board, is a public nuisance per se and may be abated, prevented or restrained by action of the town.

17-15-7 Abatement of violations

A. Within 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 30 days of receipt of this report, the floodplain board shall do one of the following:

1. Take any necessary action to effect the abatement of such violation.
2. Issue a floodplain variance to this chapter in accordance with the provisions of section 17-15-11.
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 30 days of such order and the floodplain administrator shall submit an amended report to the floodplain board within 20 days. At the next regularly scheduled public meeting, the floodplain board shall either order the abatement of said violation or they shall grant a floodplain variance in accordance with the provisions of section 17-15-11.
4. For FEMA regulated special flood hazard areas, submit to the administrator of FIA a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to section 1316 of the FIA of 1968 as amended.

B. The town may withhold the issuance of permits, including building permits, native plant permits and grading permits, for the development or improvement on the parcel or a any contiguous parcel of land under the same ownership.

17-15-8 Severability

This chapter and its various parts are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity

of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

17-15-9 Administration

A. Designation of the floodplain administrator. The town engineer or his/her designee is hereby appointed to administer, implement and enforce this chapter by granting or denying floodplain use permits in accordance with its provisions.

B. Responsibilities of floodplain administrator. The floodplain administrator shall:

1. Review all development permits to determine that:

   a. The permit requirements of this chapter have been satisfied;

   b. All other required state and federal permits have been obtained;

   c. The site is reasonably safe from flooding; and

   d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, "adversely affect" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than one tenth of a foot at any point located off of the property which is to be occupied by the anticipated development.

2. Use of other base flood data. When base flood elevation data has not been provided in accordance with paragraph 17-15-3B, 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 section 17-15-10. Any such information shall be consistent with the requirements of FEMA and the director of water resources and shall be submitted to the floodplain board for adoption.

3. Obtain and maintain for public inspection and make available the following:

   a. The certified regulatory flood elevation required in subsection 17-15-10B.3.a;

   b. The zone AO certification required in subsection 17-15-10B.3.b;

   c. The floodproofing certification required in subsection 17-15-10B.3.e;

   d. The certified opening elevation required in section 17-15-10B.3.f; and

e. Whenever a watercourse is to be altered or relocated:

i. Notify adjacent communities and ADWR prior to such alteration or relocation of a watercourse, and submit evidence of such notification to FIA through appropriate notification means; and

ii. Require that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.

4. Advise any appropriate adjacent jurisdictions having responsibility for floodplain management in writing and provide a copy of a development plan of all applications for floodplain use permits or floodplain variances to develop land in a floodplain or floodway within one mile of the corporate limits of the town.

5. Advise any public entity with responsibility for floodplain management in writing and provide a copy of any development plan of any major development proposed within a floodplain or floodway, which could affect floodplains, floodways or watercourses within the entity's area of jurisdiction. Written notice and a copy of the plan of development shall be sent to the entity no later than three working days after the town receives a complete application.

6. 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 section 17-15-11.

7. Take actions on violations of this chapter as required in section 17-15-7.

8. Notify FEMA and ADWR of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

C. Within 120 days after completion of construction of any flood control protective works which changes the rate of flow during the flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the Director of Water Resources.

D. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the

FEMA administrator of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

E. Establishment of floodplain use permit.

1. A floodplain use permit shall be obtained before construction or development begins, including placement of manufactured homes, upon any land to which this chapter applies as defined in subsection 17-15-3A.

2. Application for a floodplain use permit shall be made on forms furnished by the floodplain administrator and include, but not be limited to:

   a. Plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question with contour lines at minimum one foot intervals

   b. Datum used for plan and structures with conversion factor between NGVD and NAVD

   c. Existing or proposed structures

   d. Fill

   e. Storage of materials

   f. Drainage facilities

   g. Proposed elevation in relation to specified datum of the lowest floor (including basement) of all structures. In zone AO, elevation of existing highest adjacent natural grade and proposed elevation of lowest floor of all structures

   h. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed

   i. Certification by an Arizona registered professional civil engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 17-15-10B.3.e

   j. Require base flood elevation data for all subdivisions

   k. Information requested by the floodplain administrator as found on the site plan checklist used for the purpose of floodplain management

   l. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development

   m. Items required or permitted as part of state standard SS6-05 (development of single family homes in floodplain).

3. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flooding and lateral erosion and will not otherwise

aggravate existing conditions. If a proposed development is found to be in the path of flooding, lateral erosion or would aggravate existing conditions, improvements shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing conditions.

4. Applicants for floodplain use permits shall pay a fee in accordance with the adopted town fee ordinance schedule.
5. Conditions and restrictions shall apply to all floodplain use permits as administered by the floodplain administrator.
6. No permit shall be issued for any development which is not in conformance with this chapter or any other provision of law relating to such development. A floodplain use permit may be denied if the proposed development constitutes a danger or hazard to life or property. In making such a determination, the floodplain administrator may consider the following factors, which are not all-inclusive:
    a. The danger to life, person, or property due to increased flood heights, velocities, or redirection of flow cause by the development;
    b. The danger that materials may be swept onto other lands or downstream to the injury of others;
    c. The proposed water supply or sanitation systems of any development and the ability of these systems to prevent disease, contamination and unsanitary conditions if they should become flooded or eroded;
    d. The susceptibility of the proposed development and/or its contents to flood damage and the effect of such damage on the individual owners;
    e. The availability of alternative locations for the proposed use on the same property which are in areas not subject to flooding or erosion;
    f. The compatibility of the proposed use with existing regulatory floodplain uses and with floodplain management programs anticipated in the foreseeable future;
    g. The relationship of the proposed use to any comprehensive plan and floodplain management program for the area;
    h. All-weather access to the property;
    i. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site under both existing and proposed conditions;
    j. Documentation that all necessary permits have been obtained from state and federal agencies; and

k. Such other factors which are relevant to the purposes of this chapter.

17-15-10 Provisions for flood hazard reduction

A. General. The following subsections of section 17-15-10 contain the standards of construction for lands to which this chapter applies per subsection 17-15-3A and are further restricted or supplemented by the requirements that follow. In all cases, impact to adjacent, upstream or downstream properties shall be taken into account.

1. The water surface elevation may not be increased by more than one tenth of one foot at any point located off of the property which is to be occupied by the anticipated development.

2. The velocity of the watercourse may not be increased by ten percent or by more than 1.0 foot per second, whichever is less.

B. Standards of construction in floodprone areas

1. Anchoring

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. All manufactured homes shall meet the anchoring standards of subsection 17-15-10F.2.b.

2. Construction Materials and Methods

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;

c. All new construction, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

d. Within FEMA zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures;

e. Structures designed or utilized for human habitation, whether full or part time, shall only be permitted where the product of the flow depth d, in feet, times the square of the flow velocity v, in feet per second, of the surrounding floodwaters of the base flood does not exceed the numerical

value of 18 (dv2 ≤ 18) for a period greater than 30 minutes in duration as determined by an Arizona registered professional civil engineer and accepted by the floodplain administrator and the surrounding floodwaters of the Base Flood do not exceed three feet in depth; and

f. All structures designed or utilized for human habitation or commercial enterprise, whether full or part time, located within a floodplain or erosion hazard setback area shall provide protection for scour and lateral erosion based upon a scour/erosion analysis sealed by an Arizona registered professional civil engineer and accepted by the floodplain administrator. In all cases scour protection shall be designed to be a minimum of three feet below the lowest point of the adjacent channel or thalweg.

3. Elevation and flood-proofing

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the regulatory flood elevation.

b. New construction and substantial improvement of any residential structure in zone AO shall have the lowest floor, including basement, elevated at least one foot higher than the depth number shown on the FIRM measured from the highest existing adjacent grade or one foot higher than the BFE from a town approved drainage study, whichever is greater.

c. New construction and substantial improvement of any residential structure in zone A with no base flood elevations shall have the lowest floor, including basement, elevated at least four feet higher than the highest existing adjacent grade unless an engineering analysis is performed by an Arizona registered professional civil engineer to determine the base flood elevations, at which the requirement will then be a minimum of one foot above the base flood elevation.

d. New construction and substantial improvement of any residential structure in zone X-500-alluvial fan shall have the lowest floor, including basement, elevated at least 18 inches higher than the highest existing adjacent grade.

e. Non-residential construction shall either be elevated in conformance with the preceding requirements or shall, together with attendant utility and sanitary facilities:

i. be flood-proofed so that below the regulatory flood level the structure is watertight with walls substantially Impermeable to the passage of water;

ii. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

iii. be certified by an Arizona registered professional civil engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.

f. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by an Arizona registered professional civil engineer or architect to meet or exceed the following minimum criteria:

i. a minimum of two openings on different sides of each enclosed area that have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

ii. the bottom of all openings shall be no higher than one foot above finished grade; and

iii. openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

g. Manufactured homes shall meet the above applicable standards and also the standards in subsection 17-15-10F.

h. If fill is used to elevate any structure, the fill shall extend at such elevation for a distance of at least fifteen feet beyond the outside limit of the structure unless a study/analysis prepared by an Arizona registered professional civil engineer demonstrates that a lesser distance is acceptable.

i. Upon the completion of the structure and prior to the issuance of a certificate of occupancy the elevation of the lowest floor including basement shall be certified by an Arizona registered professional civil engineer or surveyor and provided to the floodplain administrator.

C. Standards for storage of materials and equipment

1. 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.

2. 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.

3. Storage of materials and equipment is further restricted in the floodway per subsection 17-15-10J.

D. Standards for utilities

1. All new or 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 flood waters.

2. On-site waste disposal systems shall not be located in a floodplain or erosion hazard setback area if a more suitable area exists on the parcel.

3. Waste disposal systems shall not be installed wholly or partially in a regulatory floodway. Crossings are allowed if buried at least one foot below the calculated scour depth as determined in a study/analysis prepared by an Arizona registered professional civil engineer.

4. Utilities shall be buried at least two feet below the calculated scour depth as determined in a study/analysis prepared by an Arizona registered professional civil engineer.

E. Standards for subdivisions and commercial developments

1. All preliminary subdivision plats and development plans shall delineate the FEMA SFHA, floodway if applicable, locally regulated floodplain, erosion hazard setback areas, and Base Flood elevations. The pre- and post-development conditions shall be shown.

2. All final subdivision plats shall provide the elevation of each proposed structure and pad affected by or adjacent to flood hazards. If the site is filled above the base flood, the final lowest floor and pad elevation shall be certified by an Arizona registered professional civil engineer or surveyor and provided to the Floodplain Administrator. All final subdivision plats shall delineate the FEMA SFHA, floodway if applicable, locally regulated floodplain and erosion hazard setbacks in a surveyable manner and sealed by an Arizona registered land surveyor.

3. All improvement plans relating to grading, paving, sewer or drainage shall delineate the FEMA SFHA, locally regulated floodplain, erosion hazard setback areas and base flood elevations. The pre- and post-development conditions are to be shown.

4. All subdivision and commercial development proposals shall be consistent with the need to minimize flood damage.

5. All subdivision and commercial development proposals shall have public utilities and facilities such as sewer, gas, electrical

and water systems located and constructed to minimize flood damage.

6. All subdivisions and commercial developments shall provide adequate drainage to reduce exposure to flood hazards.
7. All subdivisions with a minimum lot size of 16,000 square feet or less shall be platted such that FEMA SFHA, locally regulated floodplains, and erosion hazard setback areas are not located on individual lots. Such areas shall be contained within common areas.
8. All subdivisions with a minimum lot size greater than 16,000 square feet shall show buildable pad areas for each lot in which a FEMA SFHA, locally regulated floodplain or erosion hazard setback appears on individual lots. Pad elevations, encroachments, and/or erosion hazard setback protective measures shall be designed by an Arizona registered professional civil engineer as part of the project.
9. When a modification or removal of a FEMA SFHA is sought for a development, the following requirements apply:
    a. A hydraulic analysis and engineering plans for the modifications must be accepted by the floodplain administrator. New delineations of the floodplain conditions shall be prepared in conformance with the requirements of FEMA for LOMRs, the state director of water resources, and the town.
    b. A CLOMR must be submitted to and accepted by FEMA prior to the recording of a final plat for subdivisions.
    c. A CLOMR must be submitted to and accepted by FEMA prior to construction of physical improvements.
    d. Subdivision lots to be affected by a LOMR will not be partially released from assurance agreements or have certificate of occupancies granted until the LOMR has become effective.
    e. Commercial/industrial buildings to be affected by a LOMR shall not be granted a floodplain use permit until the LOMR has become effective, unless the building as designed meets the requirements of this chapter for the pre-LOMR conditions.
    f. Any flood control infrastructure necessary to achieve a LOMR must also have a flood control and maintenance easement dedicated to the Town that allows for inspection of said infrastructure and at the Town's sole discretion the right to repair the infrastructure. The development shall be responsible for maintenance of the infrastructure. Failure to maintain flood control infrastructure on the part of the development shall be a violation of this code.

10. All subdivisions and commercial/industrial developments shall provide all weather access in accordance with subsection 17-15-10M.

F. Standards for manufactured homes and manufactured home parks or subdivisions.

1. Manufactured homes and manufactured home parks or subdivisions must meet other applicable requirements of section 17-15-10 that have not been supplemented or revised by this subsection.

2. All manufactured homes and substantially improved manufactured homes located within lands to which this chapter applies per subsection 17-15-3A shall be required to comply with the following:

   a. Be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation; and

   b. Be securely anchored to resist flotation, collapse or lateral movement by one of the following methods:

      i. Provision of an anchoring system designed to withstand horizontal forces of 25 pounds per square foot and uplift forces of 15 pounds per square foot; or

      ii. Provision of over-the-top and frame ties to ground anchors, specifically:

         a) Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, except that manufactured homes less than 50 feet long require only one additional tie per side; and

         b) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that manufactured homes less than 50 feet long require only four additional ties per side; and

         c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

3. All manufactured home parks or subdivisions located within lands to which this chapter applies per section 17-15-3A shall be required to comply with the following:

   a. All manufactured homes shall be placed:

      i. on pads or lots elevated on compacted fill so that the bottom of the structural frame and any attached electrical appliances is at or above the regulatory flood elevation; or

ii. on stem walls or pilings so that the bottom of the structural frame and any attached electrical appliances is at or above the regulatory flood elevation.

b. Lots shall be large enough to permit steps.

c. Pilings or stem wall shall be placed in stable soil.

d. Pilings shall be no more than ten feet apart.

4. Certification that the installation of a manufactured home meets all of the requirements of this section is required. Such certification shall be provided by the person installing the manufactured home, the owner, the developer of a manufactured home park or subdivision, or an agency regulating manufactured home placement, whichever is deemed appropriate by the floodplain administrator. Certification of finished floor elevation shall be in accordance with section 17-15-10B.3.i.

G. Standards for recreational vehicles. All recreational vehicles placed on site shall either:

1. Be on site for fewer than 180 consecutive days, and be fully licensed and ready for highway use. (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

2. Meet the permit requirements of subsection 17-15-9E of this chapter and the elevation and anchoring requirements for manufactured homes in subsection 17-15-10F.

H. Standards for critical facilities. Critical facilities shall be regulated to withstand the 500-year event. Critical facilities shall be required to meet the following requirements:

1. Structures or facilities that produce, use or store more than 100,000 gallons of highly volatile, flammable, explosive, toxic and/or water-reactive materials shall be located outside of the 500-year FEMA floodplain (shaded zone X) and locally regulated floodplain calculated at the 500 year interval.

2. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood shall be located outside of the FEMA special flood hazard area and the locally regulated floodplain. Such facilities shall be designed to avoid the 500-year floodplain or certify the safety of the development per subsection 17-15-10H.4.

3. Police stations, fire stations, hospitals, nursing homes, assisted living homes, public vehicle and equipment storage facilities, emergency operations centers and schools designated to be used as temporary shelters shall be located outside the FEMA

special flood hazard area and the locally regulated floodplain. Such facilities shall be designed to avoid the 500-year floodplain or certify the safety of the development per subsection 17-15-10H.4.

4. The developers of critical facilities referenced in subsections 2 and 3 above shall certify the safety of the development by providing the following information to the satisfaction of the floodplain administrator:

5. Freeboard requirements shall be such that the finished floor elevation shall be elevated one foot above the 500-year water surface elevation.

6. Developer shall delineate any 500-year floodplains and the respective erosion hazard setback areas within 200 feet of the parcel or development.

7. The 500-year water surface elevations shall be delineated by the developer on the preliminary/final plats, development plans and improvement plans.

8. Toe downs and bank protection shall be designed to withstand the 500-year flood.

I. Standards for excavations, including sand and gravel operations.

1. Excavations, including sand and gravel operations may be permitted provided the following minimum conditions are met in addition to any other requirements per the town code. Additional conditions apply for operations occurring within a regulatory floodway as required in subsection 17-15-10J.

2. Extraction of sand, gravel and other materials is allowed provided that excavations are not so located or of such depth, or width, or length or combination of depth-width-length as to present a hazard to structures (including but not limited to roads, bridges, culverts, and utilities), to the banks of watercourses, to other property, or which adversely affects groundwater recharge.

3. No stockpiling is permitted within special flood hazard areas of materials or tailings that may obstruct, divert, or retard the flow of floodwaters except as reviewed and accepted by the floodplain administrator on an individual floodplain use permit basis.

4. Due to the rapidly changing hydraulic characteristics of watercourses in the town, and the effects excavations have on these characteristics, floodplain use permits for excavations shall only be issued for a limited time period not to exceed one year, subject to annual renewal and review by the floodplain administrator. Renewals will only be granted after receipt and acceptance of a report by the operator showing that the sand and gravel excavations remain in compliance with the conditions of the previous floodplain use permit, current

floodplain conditions and all current related floodplain management regulations.

5. In addition to those conditions provided for elsewhere, floodplain use permits for excavations may impose site specific conditions based upon hydraulics and sediment transport regarding the area and location in which excavations are allowed, the maximum amount of material to be excavated, and other reasonable restraints on the methods of operating in relationship to the floodplain conditions.

6. The floodplain administrator may require hydrologic, hydraulic and geomorphic analyses addressing the existing conditions as well as the impacts under the proposed method of operation.

J. Floodway requirements

1. Located within special flood hazard areas established in subsection 17-15-3B are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential. Encroachments are prohibited in the floodway, including fill, new construction, substantial improvements and other development. The following subsections clarify how the floodway may be developed.

2. The following open space uses are permitted within the floodway to the extent that they are not prohibited by any provision of this Title or any other ordinance, law or regulation, and provided they do not require fill, excavation, or the storage of materials or equipment:

   a. Agricultural uses, including general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, sod farming, and wild crop harvesting.

   b. Industrial-commercial uses such as loading areas, airport landing strips, and parking areas.

   c. Private and public recreational uses, including golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launch ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

   d. Accessory residential uses, including lawn gardens, parking areas and play areas.

   e. Excavations, including sand and gravel operations may occur in the floodway under the following conditions in addition to those required in subsection 17-15-10I:

f. There shall be no stockpiling of materials or tailings within the floodway.

g. Excavations may be allowed only in those reaches of watercourses which have, at a minimum, a balanced sediment system; that is, the sediment coming into the reach is equal to or greater than the sediment leaving the reach and the long term sediment balance for the entire river system indicates that the stream channel will aggrade.

h. Flood control structures designed to protect life or property from the dangers or hazards of floodwaters are permitted provided all other provisions of this chapter are met.

i. No use shall be allowed which:

i. Acting alone or in combination with existing or future uses creates danger or hazard to life or property. In determining whether a use creates a danger or hazard to property, the floodplain administrator may require a certification by an Arizona registered professional civil engineer that the proposed use will not result in any increase in the floodway elevations during the occurrence of the base flood nor will the proposed use divert, retard or obstruct the flow of flood waters.

ii. Increases the regulatory floodway elevation.

iii. Adversely effects groundwater recharge.

iv. Increases erosion potential upstream and/or downstream.

v. Places a waste disposal system wholly or partially in a floodway.

K. Erosion hazard setback requirements

1. Close proximity to watercourses poses a hazard to development due to lateral erosion. Per subsection 17-15-3A, the erosion hazard setback area of a watercourse is a land covered by this chapter.

2. Along natural watercourses where unusual geology, sinuosity or similar physical conditions exist, the erosion hazard setback shall be established on a case-by-case basis by the floodplain administrator, unless an engineering study is done to establish the limits by an Arizona registered professional civil engineer and accepted by the floodplain administrator.

3. Along incised natural watercourses where no unusual geology, sinuosity or similar conditions exist, a standard setback measured from the top of the primary channel bank shall be provided at the time of development. The setback may be reduced by an engineering analysis performed by an Arizona registered professional civil engineer and accepted by the

floodplain administrator in accordance with subsection 17-15-10K.4.

4. Along non-incised natural watercourses (i.e. sheet flow areas) where no unusual geology, sinuosity or similar conditions exist, a standard setback measured from the base flood limits shall be provided at the time of development. The setback may be reduced by an engineering analysis performed by an Arizona registered professional civil engineer and accepted by the floodplain administrator in accordance with subsection 17-15-10K.4.

5. Standard erosion hazard setbacks may be reduced by an engineering study performed by an Arizona registered professional civil engineer and accepted by the floodplain administrator. The reduced setbacks shall not fall below minimum allowable erosion hazard setbacks unless the study also includes an analysis performed by an Arizona registered professional geological engineer. The following table shows the standard and minimum allowable setbacks when no physical construction is made to prevent erosion hazard:

Base flood flow rate (cfs)	Standard erosion hazard setback (feet)	Minimum allowable erosion hazard setback (feet)
<500	25	15
500 to 1,999	50	25
2,000 to 4,999	75	45
5,000 to 9,999	100	70
10,000 and greater	250	175
Santa Cruz River	500	350

L. Detention and retention requirements

1. Any development with a net residential density of three or more units per acre after subtracting out common areas, or any residential development larger than one acre that has a density of six units per developed acre, as well as all proposed commercial and industrial developments shall provide some method of peak and/or volumetric runoff reduction. The amount of reduction is stipulated in the 1991 edition of the Pima county storm water detention/retention manual. The peak runoff reduction shall be provided through detention of storm water and storm water harvesting for irrigation where possible.

2. Balanced and critical drainage basins are watersheds that have been identified by the chief engineer of the Pima county flood control district on a 1987 map as unsuitable for increased development because of the high probability of increased flooding with development and the potential for flooding of

existing improvements or property. The floodplain administrator shall maintain this map of critical and balanced basins within the jurisdictional limits of the town. Drainage basins that have not previously been identified as unsuitable for additional urban development shall be considered balanced basins, but upon study by the floodplain administrator, may be classified as critical basins. Critical and balanced basins may be developed further only upon the incorporation of adequate detention systems or flood control facilities, as reviewed and accepted by the floodplain administrator. These detention systems or flood control facilities shall be incorporated into any and all future basin-development proposals, regardless of size or land-use density.

3. Structural flood control measures may be proposed in conjunction with, or in place of detention/retention systems if it can be clearly demonstrated that such measures will not alter the water and sediment equilibrium of the affected watercourse, and will mitigate environmental impacts. Structural flood control measures, such as channelization to a logical conclusion downstream of the proposed development and/or improvements to existing offsite flood control systems within the applicable drainage or stream reach, shall be completed in accordance with plans reviewed and accepted by the floodplain administrator.

4. Localized areas lacking sufficient improved or natural receiving waters into which runoff may be discharged may be required to follow alternative drainage solutions including complete retention practices as directed by the town engineer.

5. A fee may be collected by the town in lieu of detention/retention system when it can be clearly demonstrated that the detention at the site does not provide offsite flood relief due to the parcel size, location within the drainage basin, or other factors. The fees collected will be used to construct public flood control improvements that will mitigate the potential damage of flood waters originating from the property contributing the fees. In balanced and critical drainage basins, and where development is less than three units per acre, use of a fee system will be encouraged in lieu of a detention system to preserve the natural drainage patterns. The fee shall be equivalent to the cost of a detention system that would otherwise be constructed for the development to mitigate increased storm water runoff created by the proposed development.

M. Access requirements

1. Development shall provide all-weather access in accordance with the following requirements:

a. Developments that fall under the requirements of subdivisions of ten or fewer lots shall provide all-weather access from each lot to the subdivision entrance. All-weather access shall be constructed from the subdivision entrance to the nearest paved public roadway. This requirement may be waived if the following criteria is met:

   i. Subdivision is characterized as a residential subdivision

   ii. Subdivision is of a rural character, with minimum lot sizes of 36,000 square feet

   iii. If, in the determination of the floodplain administrator, it is not reasonably feasible to construct such access to the subdivision entrance

   iv. Subsection 17-15-10M.2 provisions are utilized.

b. All subdivisions that do not fall under the preceding requirements shall provide all-weather access from each lot to a paved public right of way. A subdivision with more than one access to a paved public roadway need only have one all-weather access.

c. All commercial developments shall provide all-weather access from a paved public roadway to all public portions of their site. Nonpublic portions of a commercial development that are not all-weather access shall be gated and signs posted in accordance with subsection 17-15-10M.2.

d. Private residential construction not part of a recorded subdivision shall construct an all-weather access from the property boundary to a paved public roadway. If in the determination of the floodplain administrator it is not reasonably feasible to construct such access to the property, then subsection 17-15-10M.2 provisions may be utilized.

2. The floodplain administrator may allow certain exemptions to all-weather access as stated in the preceding section. A condition of allowing this exemption is that the owner shall execute and record a covenant running with the land enforceable by the town which contains the following:

   a. An acknowledgement that the vehicular access may be impassable to conventional motor vehicles and emergency vehicles in times of flooding,

   b. A hold harmless provision, holding the town, its agents, the floodplain management board harmless from and against all injuries and damages resulting from the traversing or attempting to traverse the vehicle access during times of flooding, and

c. The covenant, successors and assigns shall erect and maintain a sign(s) in a location(s) and size(s) acceptable to the town stating "DO NOT ENTER WHEN FLOODED"

17-15-11 Floodplain variance procedure

A. Nature of floodplain variances

1. Floodplain variances pertain to a piece of property and are not personal in nature. A floodplain variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

2. Floodplain variances from the flood elevation or from other requirements in this chapter shall be granted only in rare situations. The long-term goal of preventing and reducing flood loss and damage can only be met if floodplain variances are strictly limited. Therefore, the floodplain variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a floodplain variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a floodplain variance are more appropriate.

B. Appeal board

1. The floodplain board of the town of Marana shall hear and decide appeals and requests for floodplain variances from the requirements of this chapter.

2. 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.

3. In considering applications, the floodplain board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

   a. The danger that materials may be swept onto other lands to the injury of others;

   b. The danger of life and property due to flooding or erosion damage;

   c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

   d. The importance of the services provided by the proposed facility to the community.

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property and all of its habitable structures in time of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system and streets and bridges.

4. Upon consideration of the factors of subsection 3 and the purposes of this chapter, the floodplain board may attach such conditions to the granting of floodplain variances as it deems necessary to further the purposes of this chapter.

5. Any applicant to whom a floodplain variance is granted shall be given written notice over the signature of a community official that:

a. The issuance of a floodplain variance to construct a structure below the base flood level will result in increased premium rates for flood insurance coverage;

b. Such construction below the base flood level increases risks to life and property; and

c. The land upon which the floodplain variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided for by A.R.S. title 26, chapter 2, article 2. A copy of the notice shall be recorded in the office of the Pima County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

6. The floodplain administrator shall maintain a record of all floodplain variance actions, including justification for their issuance and report such floodplain variances issued in its biennial report submitted to FEMA.

C. Conditions for floodplain variances.

1. Floodplain variances may be issued for the repair, rehabilitation, restoration, or floodproofing of structures listed

in the national register of historic places or the state inventory of historic places, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the floodplain variance is the minimum necessary to preserve the historic character and design of the structure.

2. Floodplain variances may be issued for accessory structures used solely for limited storage that have a size of less than 150 square feet, provided that the following requirements are met:
   a. Structure is anchored to resist flotation, collapse and lateral movement;
   b. The portions of the structure located below the BFE are constructed of flood resistant materials;
   c. The structure is designed to allow for the automatic entry and exit of flood waters;
   d. Any mechanical, utility or electrical equipment is elevated or floodproofed above the BFE; and
   e. The structure does not violate any floodway requirements.
3. Floodplain variances may be issued for agricultural structures whose use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, such as pole and pre-fabricated metal structures, grain bins and corn cribs provided that the following requirements are met:
   a. The structure is designed in a manner that results in minimal damage from flooding;
   b. The contents stored in the structure will create no additional threat to the public;
   c. The structure is designed to allow for the automatic entry and exit of flood waters;
   d. Any mechanical, utility or electrical equipment is elevated or floodproofed above the BFE; and
   e. The structure does not violate any floodway requirements.
4. Floodplain variances shall not be issued within any designated floodway if any increase in flood levels during the Base Flood discharge would result.
5. Floodplain variances shall only be issued upon a determination that the floodplain variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Floodplain variances shall only be issued upon:
   a. A showing of good and sufficient cause;

b. A determination that failure to grant the floodplain variance would result in exceptional hardship to the applicant;

c. A showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in section 17-15-2 of this chapter in the definition of "functionally dependent use"; and,

d. A determination that the granting of a floodplain 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.

17-15-12 Appendix 1 – Table of regulatory peak discharges

Note: List is not all inclusive; remaining watersheds area also subjected to Marana floodplain and erosion hazard management code restrictions. Listed discharges are subject to review and revision due to urbanization and improvements. Check with the town engineer before their use.

WATERCOURSE	REGULATORY	DESIGN
Blanco Wash @ Los Robles Wash	17,000	22,000
Brawley Wash @ Los Robles Wash	35,000	40,000
Hardy Wash @ Camino De Oeste Road	4,536	
Little Brawley Wash @ 32d7'25"	13,440	
Los Robles Wash @ Blanco Wash	37,000	42,000
Picture Rock Wash @ Picture Rocks Road	3,479	
Canada Del Oro Wash @ Thornydale	28,000	33,000
Rillito River @ I-10	32,000	38,000
Santa Cruz River @ Cortaro Road	70,000	80,000
Tortolita Fan: Canada Agua Canyon @ I-10	5,255	
Tortolita Fan: Cochie Canyon @ I-10	5,779	
Tortolita Fan: Cottonwood Canyon @ I-10	5,439	
Derrio Canyon @ I-10	5,229	
Eastern Limit of Fan @ I-10	4,084	
Guild Canyon @ I-10	4,561	
Ruelas Canyon @ I-10	4,604	

WATERCOURSE	REGULATORY	DESIGN
Prospect Canyon @ I-10	4,340	
Wild Burro @ I-10	5,831	

Unless otherwise noted, design discharges shall be 20% greater than regulatory discharges.

CHAPTER 17-16. STORMWATER MANAGEMENT

Sections:

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17-16-1 General provisions

A. Purpose. These regulations establish minimum stormwater management requirements for the management of pollutants that are or may be discharged to the municipal storm sewer system. The purpose is to improve the quality of stormwater discharges and to enable the Town to comply with all applicable state and federal laws, including but not limited to, the clean water act (33 U.S.C. § 1251 et seq.), the national pollutant discharge elimination system regulations (40 CFR, Part 122), and the town's Arizona pollutant discharge elimination system (AZPDES) MS4 general permit (Ariz. admin. code R18-9-A902).

B. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings set forth in this paragraph. Where noted, the definitions shall correspond with the applicable section of the Arizona revised statutes as amended.

1. ADEQ: Arizona department of environmental quality, regulatory entity of the state of Arizona responsible for administering various federal and state environmental laws and programs, including most water quality programs, air quality, and waste programs.

2. AZPDES permit: Arizona pollutant discharge elimination system - any permit issued by the Arizona department of environmental quality delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis in compliance with the clean water act (CWA).

3. BMPs, best management practices: Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to

control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

4. CGP: Construction general permit
5. Common plan of development: A smaller project is part of a larger common plan of development or sale if the project collectively will disturb one or more acres, e.g., a single private or commercial lot that is part of a subdivision or commercial development.
6. Contractor: Synonymous with the term "builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, who, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does himself or by or through others, or directly or indirectly supervises others to:
    a. 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, or to do any part thereof, including the erection of scaffolding or any other structure or work in connection with the construction.
    b. Connect such structure or improvements to utility service lines and metering devices and the sewer line.
    c. Provide mechanical or structural service for any such structure or improvements. A.R.S. § 32-1101 (3).
7. CWA, clean water act: The federal water pollution control act, as amended, 33 U.S.C. 1251 et. seq.
8. Developer: Any person, group or entity proposing or constructing a development as defined by the land development code.
9. Discharge: Any addition of any pollutant to waters of the United States from any point source. A.R.S. § 49-255 (2).
10. EPA: The United States environmental protection agency charged with primary enforcement of the clean water act (CWA).
11. Final stabilization: means that either:
    a. All soil disturbing activities at the site have been completed and either of the two following criteria are met:
        i. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or

ii. Equivalent permanent stabilization measures (such as riprap, gabions, or geotextiles) have been employed.

b. When background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches), the 70% coverage criteria is adjusted as follows: if the native vegetation covers 50% of the ground, 70% of 50% (.70 x .50 = .35) would require 35% total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.

c. For individual lots in residential construction final stabilization means that either:

i. The homebuilder has completed final stabilization as specified above, or

ii. The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization, or

iii. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "water of the United States," and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria above.

12. Illicit discharge: Any discharge to a storm drain system that is not composed entirely of stormwater except discharges pursuant to a NPDES or AZPDES permit, discharges resulting from emergency fire fighting activities, and discharges further exempted in subsection 17-16-2 B of this chapter.

13. Monitoring: Periodic or continuous surveillance or testing to determine the level of compliance with statutory requirements and/or pollutant levels in various media or in humans, plants, and animals.

14. MS4, municipal separate storm sewer system: Includes, but is not limited to, those facilities located within the town and owned or operated by a public entity by which stormwater may be collected and conveyed to waters of the United States, including any roads with drainage systems, public streets, inlets, curbs, gutters, piped storm drains and retention or detention basins.

15. NPDES permit, national pollutant discharge elimination system permit: A discharge permit issued by the EPA in compliance with the federal clean water act.

16. NOI: Notice of intent

17. NOT: Notice of termination

18. Operator: In the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:

    a. The person has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

    b. The person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform operators of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of stormwater associated with construction activity.

19. Owner or operator: The owner or operator of any "facility or activity" subject to regulation under the NPDES program.

20. Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns.

21. Point source: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged to navigable waters. Point source does not include return flows from irrigated agriculture. A.R.S. § 49-201 (27).

22. Pollutant: Fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances. A.R.S. § 49-201 (28).

23. Pollution: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water of the state or water of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose as determined by the town engineer.
24. Release: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, placing, leaching, dumping, or disposing into or on any land in a manner that can cause pollution.
25. Stormwater: Stormwater runoff, snow melt runoff, and surface runoff and drainage.
26. SWPPP, stormwater pollution prevention plan: A plan that includes site map(s), an identification of owner/operator activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.
27. Waters of the state: All waters within the jurisdiction of this state including all perennial or intermittent streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on the state. A.R.S. § 49-01 (48).
28. Waters of the United States:
    a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
    b. All interstate waters, including interstate wetlands;
    c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any waters:
        i. That are or could be used by interstate or foreign travelers for recreational or other purposes;
        ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
        iii. That are used or could be used for industrial purposes by industries in interstate commerce;

d. All impoundments of waters defined as waters of the United States under this definition;

e. Tributaries of waters identified in subsections a through d above;

f. The territorial sea; and

g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections a through f above.

C. Applicability. This chapter shall apply to all activities which may potentially affect the municipal separate storm sewer system, any private storm sewer system or any water of the Untied States within the town. Additionally, permanent and temporary stormwater management controls, practices and facilities, constructed as part of any activities listed in this section, which are located within the town limits, are also subject to this chapter. The stormwater management practices and discharge standards, should such standards be established, shall apply to any construction project that disturbs one acre or more, including industrial, commercial, institutional, and residential.

D. Delegation of authority for administration and enforcement. The town engineer of the town is delegated the authority to exercise the powers and perform the duties set forth in this chapter and to administer and enforce provisions of this chapter. The town engineer may designate other employees to exercise such powers and perform such duties, as he or she deems appropriate.

E. Regulatory consistency. This chapter shall be construed to assure consistency with the requirements of the federal clean water act (CWA) and acts amendatory thereof or supplementary thereto, applicable state or federal implementing regulations, and the municipal AZPDES or NPDES permit and any amendments, revisions, or reissuance thereof. No permit or approval issued pursuant to this chapter shall relieve a person of the responsibility to secure permits and approvals required for activities regulated by any other applicable rule, code, act, permit, or ordinance. The town shall not certify or defend that the applicant has met the requirements of the federal CWA.

F. General. The town engineer may adopt and enforce such rules, regulations, ordinances, standards, processes and forms as the town engineer deems necessary for the efficient administration and enforcement of this chapter. The town engineer may interpret and enforce this chapter. Upon request of the town engineer any other department of the town has the authority to assist in the exercise of powers and performance of duties under this chapter.

G. Severability. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect

the other provisions or application of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are hereby declared to be severable.

17-16-2 Prohibitions and controls to reduce the discharge of pollutants in stormwater

A. General Requirements

1. Any person engaged in activities which will or may result in pollutants entering a storm sewer system shall undertake appropriate measures to reduce the potential to discharge such pollutants. Examples of such activities include, but are not limited to, reduction of use and proper disposal of household chemicals, such as cleaners, disinfectants, pesticides, fertilizers, carpet cleaning waste water and other pollutants associated from the ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, construction sites, and retail establishments.

2. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, vegetation trimmings or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, parking area, or upon any public or private plot of land so that the same might be or become a pollutant, except where such pollutant is being temporarily stored in properly contained waste receptacles or is part of a well-defined compost system or pursuant to another recycling system.

3. No person shall cause or permit the discharge into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the town any pollutant originating from a dumpster, solid waste bin, or similar container.

B. Prohibition of non-stormwater discharge to the municipal storm sewer system; exemptions

1. Unless expressly authorized or exempted by this chapter, no person shall cause or allow the discharge to a public right-of-way or municipal storm sewer system of any substance that is not composed entirely of stormwater.

2. Unless expressly authorized or exempted by this chapter, no person shall use, store, spill, dump, or dispose of materials in a manner that those materials could cause or contribute to the addition of pollutants to stormwater.

3. Exemptions. The following discharges are exempt from the prohibitions set forth in subsections 1 and 2 of this subsection:

a. Dechlorinated waters from water line flushing;

b. Landscape irrigation;

c. Diverted stream flows;

d. Rising ground waters;

e. Uncontaminated groundwater infiltration;

f. Uncontaminated pumped groundwater;

g. Discharges from potable water sources;

h. Foundation drains;

i. Air condition condensation;

j. Irrigation water;

k. Springs;

l. Water from crawl space pumps;

m. Footing drains;

n. Lawn watering;

o. Individual residential car washing;

p. Discharges from riparian habitats and wetlands;

q. Dechlorinated swimming pool discharges; and

r. Discharges or flows from emergency fire fighting activities.

4. No person shall discharge to a publicly owned right-of-way or the municipal storm sewer system any exempted discharge under subsection 3 if the town engineer or assigned designee identifies and provides written notice to the person that the discharge has the potential to be a source of pollutants to receiving waters, waterways, or groundwater.

5. No person shall discharge to the municipal storm sewer system where such discharge would result in or contribute to a violation of the AZPDES stormwater permit issued to the town, either separately considered or when combined with other discharges. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge.

C. Operating facilities or activities

1. All persons owning or operating premises or engaged in activities who are required by federal or state law to submit to EPA and/or ADEQ a notice of intent (NOI) to comply with an NPDES or AZPDES stormwater permit shall provide a copy of the authorization certificate to the town upon request. Facilities required to apply for a stormwater permit are identified in 40 CFR 122.23(B) (14).

2. All persons engaged in activities which will or may reasonably be expected to result in pollutants entering the municipal storm sewer system shall undertake best management (BMPs) to minimize such pollutants, shall provide protection from accidental discharge of pollutants to the municipal storm sewer system and further comply with the cleanup and notification requirements of this chapter. Such measures shall include any additional requirements imposed by federal, state, county, or local authorities.

3. In the case that a specific best management practice is required by the town to prevent a pollutant from entering the municipal storm sewer system, the person receiving the notice of such a requirement may petition the town to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten calendar days setting forth any reasons and proposed alternatives. The town will act within 14 calendar days of the petition.

4. No person shall establish, use, maintain, or continue any connection to the municipal storm sewer system which is causing a violation of this section. This shall apply to any connection that was made in the past, regardless of whether it was made under permit or other authorization, or whether it was permissible under the law or practices applicable or prevailing at the time of connection as of the effective date of this chapter.

D. Construction sites

1. All persons engaged in construction activities who are required by federal or state law to submit to EPA and/or ADEQ a notice of intent (NOI) to comply with an NPDES or AZPDES stormwater permit, shall provide the town with copies of the approved NOI, the site-specific stormwater pollution prevention plan (SWPPP), and the AZPDES individual stormwater permit, if applicable, issued by ADEQ. Town acceptance of the SWPPP is required prior to issuance of a grading permit. Construction activities that will disturb one acre or more of land area or that are part of a larger common plan of development or sale are required to apply for a stormwater permit (40 CFR 122.26(B)(15)).

2. Any person performing construction that has submitted a copy of an approved NOI to the town shall not cause or contribute to a violation of the AZPDES stormwater permit issued to the town. Liability for any such discharge shall remain the responsibility of the person causing or responsible for the discharge. Any person performing construction activity shall undertake best management practices to minimize or eliminate pollutants (including the discharge of sediments) from leaving the construction site, shall provide protection from accidental discharge of other pollutants to the municipal storm sewer

system, and comply with the cleanup and notification requirements of this chapter. Site operator shall ensure effective erosion, sediment and waste control and properly dispose of wastes, such as discarded building materials, concrete truck washout material, chemicals, litter, sanitary waste and other pollutants at the construction site that may cause adverse impacts to water quality. Such measures shall include the requirements imposed by federal, state, county and/or local authorities.

3. Stormwater pollution prevention plans shall be prepared and reviewed in accordance with the Arizona pollutant discharge elimination system construction general permit issued by the Arizona department of environmental quality. The town shall not certify or defend that the applicant has met the requirements of the federal Clean Water Act.

4. In the case that a specific best management practice is required by the town to prevent a pollutant from entering the municipal storm sewer system, the person receiving the notice of such a requirement may petition the town to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten calendar days setting forth any reasons and proposed alternatives. The town will act within fourteen calendar days of the petition.

5. Basins with a retention component may be used as temporary sediment basins during construction provided the following conditions are met:

   a. Prior to acceptance, the basin shall be retested for percolation; and

   b. Additional measures must be put in place to collect sediment prior to entry into the basin, i.e. the basin must be part of a cascading sediment trapping system.

6. Exemptions: The following discharges are exempt from the prohibitions set forth in subsection 17-16-2 C for construction sites or activities:

   a. Discharges from fire-fighting activities;

   b. Fire hydrant flushing;

   c. Waters used to wash vehicles where detergents are not used;

   d. Water used to control dust, provided effluent or other wastewaters are not used;

   e. Potable water sources including water line flushing;

   f. Routine external building wash down where detergents are not used;

g. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;

h. Uncontaminated air conditioning or compressor condensate;

i. Uncontaminated ground water or spring water;

j. Foundation or footing drains where flows are not contaminated with process materials such as solvents;

k. Potable water well flushing where the receiving waters are ephemeral;

l. Water used for compacting soil, provided effluent or other wastewaters are not used;

m. Water used for drilling and coring such as for evaluation of foundation materials; where flows are not contaminated with additives; and

n. Water obtained from dewatering operations/foundations in preparation for and during excavation and construction.

E. Stormwater pollution prevention plans (SWPPP)

1. The owner/operator shall submit two copies of a site specific SWPPP (both a narrative and engineering drawings) during the grading/improvement plan review period.

2. Town staff will review the submission in accordance with applicable federal, state, and/or local regulations.

3. A SWPPP accepted by the town is required prior to the issuance of a grading permit.

4. Two copies of the accepted SWPPP, a copy of the owner(s) and operator(s) NOI, along with copies of the accepted grading/improvement plans shall be submitted with the application for a grading permit prior to start of any work on-site.

5. For projects that are part of a larger common plan of development with custom lots, the following shall apply:

   a. The developer for the project shall prepare a stormwater pollution prevention plan (SWPPP) and submit a notice of intent (NOI) to ADEQ or EPA, with an approved copy of the NOI to the town for the portion of the project for which they have operational control.

   b. The SWPPP shall address the construction of infrastructure site development and proposed residential construction. The developer shall submit a NOI and SWPPP with accepted grading/improvement plans with the application for a grading permit.

c. The individual buyer of a lot in a large lot/custom home site subdivision shall submit to the town, with the application for a grading permit, a plan sheet outlining stormwater pollution prevention measures for construction on the individual lot. This plan sheet shall become an attachment to the SWPPP previously completed by the developer and accepted by the town. The individual buyer and the operator shall submit separate NOIs and sign the certifications in the SWPPP. An accepted plan sheet and NOIs shall be required prior to the issuance of a grading permit.

6. For mass graded subdivisions, the following shall apply:

   a. The developer for the project shall prepare a stormwater pollution prevention plan (SWPPP) and submit a notice of intent (NOI) to ADEQ or EPA, with an approved copy of the NOI to the town for the portion of the project for which they have operation control.

   b. The developer shall prepare a SWPPP that addresses off-site and on-site best management practices for erosion, sediment and waste control for both the infrastructure and residential improvements.

   c. The developer shall be responsible for compliance with this chapter until such time as the developer can demonstrate that operational control for all portions of the site has been transferred to another operator or final stabilization for the entire site has been achieved.

7. For commercial development, the following shall apply:

   a. The developer for the project shall prepare a stormwater pollution prevention plan (SWPPP) and submit a notice of intent (NOI) to ADEQ or EPA, with an approved copy of the NOI to the town for the portion of the project for which they have operation control.

   b. The developer shall prepare a SWPPP to address on-site and off-site best management practices for erosion, sediment, and waste control.

   c. For commercial lots that are part of a common plan of development, the owner/operator for the individual lot shall submit a separate SWPPP and NOI with improvement plans; the SWPPP shall be accepted by the town prior to issuance of a grading permit.

8. Routine inspection schedule: The operator must ensure routine inspections are performed at the site to ensure that BMPs are functional and that the SWPPP is being properly implemented. The operator must specify an inspection schedule in the SWPPP and may choose either of the following:

a. The site will be inspected at least once every seven calendar days, or

b. The site will be inspected at least once every 14 calendar days, and also within 24 hours of the end of each storm event of 0.5 inches or greater.

9. Based on the results of the inspection, the operator must modify the SWPPP to include additional or modified BMPs designed to correct problems identified. The operator must complete revisions to the SWPPP within seven calendar days following the inspection.

10. No waivers allowable under the AZPDES construction general permit shall be accepted by the town for any development over one acre in size or that is part of a larger common plan of development or sale.

F. Maintenance of stormwater facilities

1. Property owners or operators shall warrant post-construction stormwater runoff control facilities including but not limited to, retention basins, dry wells, and other measures (as described in 40 CFR 122.34 (B)(5)(III) during the warranty period.

2. Stormwater facilities shall be maintained by the owner or other responsible party and shall be repaired and/or replaced by such person when such facilities are no longer functioning as designed.

3. Disposal of waste from maintenance of facilities shall be conducted in accordance with applicable federal, state, and local laws and regulations

4. Records of installation and maintenance and repair of facilities referenced in subsection 1 of this section shall be retained by the owner or other responsible party for a period of five years and shall be made available to the public works department upon request.

5. Any failure to maintain facilities or correct problems with facilities after receiving due notice from the town may result in criminal or civil penalties and the town may perform corrective or maintenance work which shall be at the owner's expense.

G. Cleanup and notification requirements

1. In the event of a spill or release in reportable quantities as defined in 40 CFR 302, 40 CFR 110 and 40 CFR 117, the owner, operator, or the person who has control of the source or location of any spill or release, which may result in a discharge that is not in compliance with this chapter, shall immediately take all reasonable safety precautions including, if appropriate, calling 911 and completing the following steps:

a. Proceed with containment and clean up in accordance with:

i. The orders of an involved health and safety agency, or if no such orders have been issued, then:

ii. The orders of an authorized representative, or if no such orders have been issued, then

iii. The stormwater pollution prevention plan or approved corrective action plan utilizing best management practices for the involved facility.

b. Report any violations of the northwest fire department fire code or other such applicable safety or health codes in the manner required by such code;

c. Notify the town environmental engineering division at (520) 382-2600 of the release by telephone within 24 hours of knowledge of the release;

d. Provide written notification within five calendar days to the town environmental engineering division of the type, volume, cause of the discharge, corrective actions taken, and measures to be taken to prevent future occurrences.

2. Compliance with the requirement in subsection 17-16-2 G. 1 shall not relieve the discharger from the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302.

17-16-3 Compliance monitoring

A. Inspections

1. Authority to inspect. Upon presentation of credentials and at all reasonable or necessary hours, all authorized employees of the town shall have access to all premises and to all records pertaining to those premises for purposes of ensuring compliance with this chapter. Inspection, interviewing, copying, sampling, photographing, and other activities conducted on the premises shall be limited to those which are reasonably needed by the town in determining compliance with the requirements of this chapter. All persons shall allow such activities under safe and non-hazardous conditions with a minimum of delay.

2. Monitoring activities. The town may order any person engaged in any activity or owning or operating on any premises which is causing or contributing to discharges of pollutants to the municipal storm sewer system in violation of this chapter or any applicable NPDES or AZPDES stormwater permit condition or that is posing a risk to public health, safety, and welfare to undertake such monitoring activities and analyses and furnish such reports as the town reasonably may specify. The costs of such activities, analyses, and reports shall be borne in the recipient of the order.

3. When inspections by town staff reveal deficiencies in the implementation of the SWPPP a written inspection report will

be provided to the owner and operator within 30 days of the inspection.

4. Access refusal. If an authorized employee of the town has been refused access to any premises, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect, interview, copy, photograph or sample as part of an inspection and sampling procedure of the town designed to determine compliance with the requirements of this chapter or any related laws or regulations, or to protect the environment and the public health, safety, and welfare of the community, then the town may seek issuance of a search warrant from the town municipal court.

B. Enforcement and penalties

1. Charges or penalties levied pursuant to this chapter shall be collected by the department of public works and utilized for public education and outreach in compliance with the town's MS4 Permit. The town engineer shall make and enforce economic and efficient management and protection of the town's storm sewer system.

2. Operator and/or owner of record. The operator performing activities and/or owner of record of the property upon which a violation of this chapter occurs shall be presumed to be a person having lawful control over the activity or premises unless it is demonstrated and documented that another person has knowingly and in good faith accepted responsibility for the activity at issue. If more than one person is identified as the owner, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or premises.

3. Notice to correct. The town may issue a written notice to correct to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice to correct may result in a notice of violation and/or stop work order as described in subsections 4 and 6 of this section.

4. Notice of violation. The town may issue a written notice of violation to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice of violation shall be a separate violation for each day beyond the thirtieth calendar day following the notice of violation. Nothing in this section shall limit the authority of the town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. In appropriate situations the town may notify the person orally either in person or by telephone prior to written notification.

5. Consent orders. The town may enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements, or other similar documents establishing an agreement with any person responsible for noncompliance. Such documents will include specific action to be taken by the person to correct the noncompliance within a time period specified by the document, including an identification and description of the best management practices and measures to utilize in implementing the order. Such documents shall have the same force and effect as any other orders issued under this chapter and shall be judicially enforceable.

6. Stop work order. For projects under construction in the town, if the town finds that a person has violated, or continues to violate, any provision of this chapter or any related laws or regulations, or that the person's past violations are likely to recur, the town may issue a stop work order to the person directing them to cease and desist all such violations and direct the person to immediately comply with all requirements; and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the person. A person's failure to comply with an order issued pursuant to this chapter shall constitute a violation of this chapter.

7. Civil penalties. In addition to any other enforcement authority contained in this chapter, the town may issue a civil citation to any person who has violated, or continues to violate, any provision of this chapter or any related laws or regulations. A person who violates any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition shall be civilly liable to the town for a sum not to exceed $2,500 per day for each violation.

8. Criminal penalties. A person who willfully or negligently violates any provision of this chapter, or any related laws or regulations shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $2,500 per day for each violation and/or by imprisonment for a period not to exceed six months.

9. Criminal prosecution. Some intentional violations may constitute criminal violations of federal, state, and town law, and that under such circumstances, the town may seek the assistance of the EPA, the state, or the town prosecutor to commence civil and/or criminal action against any person who violates any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition.

10. The town may withhold the issuance of permits including but not limited to building permits, native plant permits and

grading permits, for the development or improvement on the parcel or any contiguous parcel of land under the ownership of a person or persons in violation of any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition.

11. Liability for costs. The town may assess liability for costs to any person in violation of this chapter for all actual costs incurred by the town in surveillance, sampling and testing, abatement, and remediation associated with a discharge. Additionally, the town may assess liability for costs to any person whose discharge resulted in a violation of the town's AZPDES stormwater permit

CHAPTER 17-17. DEVELOPMENT IMPACT FEE ORDINANCE [EXISTING; NO REVISIONS]