

ORDINANCE NO. 25-06

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE
TOWN OF FOUNTAIN HILLS, ARIZONA, REPEALING AND
REPLACING TOWN CODE CHAPTER 7 BUILDINGS AND
BUILDING REGULATIONS**

ENACTMENTS:

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS, ARIZONA, as follows:

SECTION 1. That Chapter 7, Buildings and Building Regulations, of the Fountain Hills Town Code, is hereby repealed and replaced with a new Chapter 7, Buildings and Building Regulations, as provided in Exhibit A attached hereto.

SECTION 2. That this ordinance become effective on September 1, 2025.

PASSED AND ADOPTED by the Mayor and Council of the Fountain Hills, Maricopa County, Arizona, this 17th day of June, 2025.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:

Mayor

Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

Town Manager

Town Attorney

Exhibit A

Chapter 7, Buildings and Building Regulations

Article 7-1

Buildings and Building Regulations

Section 7-1-1 Adoption of Technical Codes by Reference; Violations

A. The following listed publications, three copies of which are on file in the office of the Town Clerk and which are available for public inspection during normal business hours, are hereby adopted by reference, together with all appendices and supplements thereto, as if set out at length in this code:

1. The International Building Code, 2024 Edition and all supplements, as published by the International Code Council
2. The International Mechanical Code, 2024 Edition and all supplements, as published by the International Code Council.
3. The National Electrical Code, 2023 Edition and all supplements, as published by the National Fire Protection Association.
4. The International Swimming Pool and Spa Code, 2024 Edition and all supplements, as published by the International Code Council.
5. The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition and all supplements, as published by the International Conference of Building Officials.
6. The International Plumbing Code, 2024 Edition and all supplements, as published by the International Code Council.
7. The Maricopa Association of Governments Standard Specifications and Uniform Details for Public Works Construction.
8. The International Energy Conservation Code, 2024 Edition and all supplements, as published by the International Code Council.
9. The International Fire Code, 2024 Edition and all supplements, as published by the International Code Council.
10. The International Residential Code for One- and Two-Family Dwellings, 2024 Edition and all supplements, as published by the International Code Council.
11. The International Fuel Gas Code, 2024 Edition and all supplements, as published by the International Code Council.
12. The 2024 Fountain Hills Amendments to the 2024 International Building Code, the 2024 International Residential Code for One- and Two-Family Dwellings, the 2024 International Energy Conservation Code, 2024 International Swimming Pool and Spa Code, and the 2024 International Fire Code.

B. The Council finds and determines that the adoption of the 2024 International Fire Code, or any subsequent fire-safety code, shall not affect the validity of the Town's existing fire sprinkler requirements. To ensure preservation of the Town's fire sprinkler requirements, if there is a reference in the above-described codes to a residential fire sprinkler requirement, the applicable code shall be the 2006 International Fire Code, as amended, which code and amendments were adopted by the Council on April 17, 2008.

Section 7-1-2 Amendments

The 2024 Fountain Hills amendments to the 2024 International Building Code, the 2024 International Residential Code for One- and Two-Family Dwellings, the 2024 International Energy Conservation Code, the 2024 International Swimming Pool and Spa Code, the 2024 International Fire Code, and the 1997 Uniform Code for the Abatement of Dangerous Buildings are as follows:

A. The International Residential Code for One- and Two-Family Dwellings, 2024 Edition, is amended in the following respects:

1. Amend Sections R101.1 and R103.1 to insert the words "Town of Fountain Hills" as the name of the jurisdiction.

2. Amend Section R105.2 Work exempt from permit to read as follows:

Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

a. One-story detached accessory structures, provided that the floor area does not exceed 120 square feet.

b. Fences not over 30 inches high.

c. Retaining walls that are not over 2 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

d. Sidewalks and driveways.

e. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

f. Prefabricated swimming pools that are less than 24 inches deep.

g. Swings and other playground equipment.

h. Window awnings supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.

i. Decks not exceeding 200 square feet in area, that are not more than 30 inches above grade at any point, are not attached to a dwelling, and do not serve the exit door required by Section R311.4.

3. Amend Section P2904 to reference the 2024 International Fire Code and the Town amendments as the Code.

4. Delete N1103.10.3 (R403.10.3) Covers.

B. The International Building Code, 2024 Edition, is amended in the following respects:

1. Amend Sections 101.1 and 103.1 to insert the words “Town of Fountain Hills” as the name of the jurisdiction.

2. Amend Section 105.2 Work exempt from permit to read as follows:

Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

- a. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided that the floor area is not greater than 120 square feet.
- b. Fences not over 30 inches high.
- c. Oil derricks.
- d. Retaining walls that are not over 2 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
- e. Sidewalks and driveways not more than 30 inches above adjacent grade, and not over any basement or story below and are not part of an accessible route.
- f. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
- g. Temporary motion picture, television, and theater stage sets and scenery.
- h. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches deep, are not greater than 5,000 gallons and are installed entirely above ground.
- i. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
- j. Swings and other playground equipment accessory to detached one- and two-family dwellings.
- k. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.
- l. Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches in height.

C. The International Energy Conservation Code, 2024 Edition, is amended in the following respects:

1. Amend Sections C101.1 and R101.1 to insert the words “Town of Fountain Hills” as the name of the jurisdiction.

2. Delete R403.10.3 Covers.

D. The International Swimming Pool and Spa Code, 2024 Edition,

1. Delete 303.1.3 Covers.
2. Amend 305.2.1 Barrier height and clearances. Barrier heights and clearances shall be in accordance with all of the following:
 - a. The top of the barrier shall be not less than 60 inches above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3 feet (914 mm) measured horizontally from the outside of the required barrier.
3. Amend 305.2.6 Closely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 54 inches, the horizontal members shall be located on the pool or spa side of the fence. Spacing between vertical members shall not exceed 1-3/4 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1-3/4 inches in width.
4. Amend 305.2.7 Widely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 54" inches or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, the interior width of the cutouts shall not exceed 1-3/4 inches (44 mm).
5. Amend 305.5 On-ground residential pool structure as a barrier. An on-ground residential pool wall structure or a barrier mounted on top of an on-ground residential pool wall structure shall serve as a barrier where all of the following conditions are present:
 - a. Where only the pool wall serves as the barrier, the bottom of the wall is on grade, the top of the wall is not less than 60 inches above grade for the entire perimeter of the pool, the wall complies with the requirements of Section 305.2 and the pool manufacturer allows the wall to serve as a barrier.
 - b. Where a barrier is mounted on top of the pool wall, the top of the barrier is not less than 60 inches above grade for the entire perimeter of the pool, and the wall and the barrier on top of the wall comply with the requirements of Section 305.2.

E. The International Fire Code, 2024 Edition, is amended in the following respects:

1. Amend Section 101.1 Title. These regulations shall be known as the Town Fountain Hills Fire Code, hereinafter referred to as "this code".
2. Section 101.2.1 Appendices. The following appendices of the 2024 International Fire Code shall be adopted, appendices P and Q as provided in Sec. 7-1-2 E. 58. below, shall be added:
 - a. Appendix B Fire-Flow Requirements for Buildings.
 - b. Appendix C Fire Hydrant Locations and Distribution.
 - c. Appendix D Fire Apparatus Access Roads.

- d. Appendix E Hazard Categories.
 - e. Appendix F Hazard Ranking.
 - f. Appendix G Cryogenic Fluids-Weight and Volume Equivalents.
 - g. Appendix H HMMP and HMIS Instructions.
 - h. Appendix I Fire Protection Systems-Non Compliant Conditions.
 - i. Appendix J Building Information Sign.
 - j. Appendix K Construction Requirements for Existing Ambulatory Care Facilities.
 - k. Appendix L Requirements for Firefighter Air Replenishment Systems.
 - l. Appendix M High Rise Buildings Retroactive Automatic Sprinkler Requirements.
 - m. Appendix N Indoor Trade Shows and Exhibitions
 - n. Appendix P Control and Suppression of Hazardous Fire Areas
 - o. Appendix Q Fountain Hills Fire Related Incidents Citation Program
3. Add Section 102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 80 and the Town of Fountain Hills codes. The most current editions shall apply.
 4. Amend Section 105.1.2 Types of Permits. Unless otherwise addressed in the code, permits regarding fire issues shall be addressed through the following approval processes and shall be considered operational permits (see definitions):
 - a. Special Use Permits
 - b. Building Permits
 - i. For the purpose of this code, this shall include construction permits, which allows the applicant to install or modify systems and equipment identified in Section 105.7.
 5. Amend Section 105.2 Application. Applications for permits listed in Section 105.1.2 shall be made through the approved processes and through the approved departments of the Town of Fountain Hills, AZ.
 6. Amend Section 105.6 Required operational permits. The fire code official is authorized to issue permits for the operations and activities set forth in Sections 105.6.1 through 105.6.25. The issuance of the permits will be determined on an “as –needed” basis and shall be in the best interest of fire and life safety and in the best interest of the Town of Fountain Hills, AZ.
 7. Amend Section 105.7 Required construction permits. The Town of Fountain Hills, AZ adopted building code shall apply to permits set forth in Sections 105.6.1 through 105.6.25.
 8. Amend Section 113.3 Notice of violation. When the fire code official finds a building, premises, vehicle, storage facility, or outdoor area that is in violation of this code, the fire code official is authorized to prepare a written notice of the violation(s), describing the conditions deemed unsafe and, when compliance is not immediate, specifying the date and time for re-inspection.
 9. Amend Section 113.4 Violation penalties. Persons who violate a provision of this code or fail to comply with any of the requirements thereof or who erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certification used under provisions of this code, shall be sentenced to a fine

of not more than one thousand dollars (\$1,000.00). Each day that the violation continues after notice has been served shall be deemed a separate offense.

10. Amend Section 114.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than one thousand dollars (\$1,000.00).

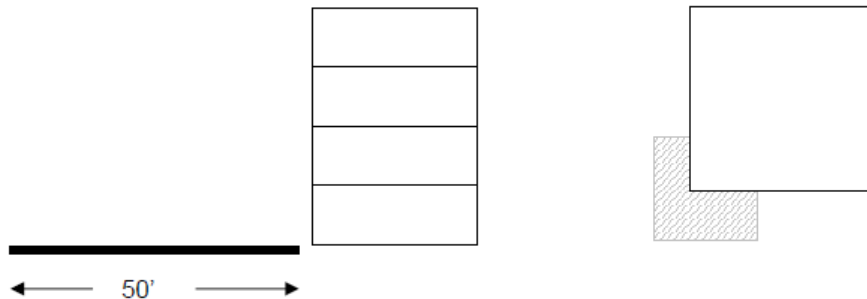
11. Amend Chapter 2 DEFINITIONS.

- a. Amend FIRE CODE OFFICIAL. The Fire Marshal Official charged with the administration and enforcement of the code.
- b. Add Adult and child care facilities shall meet the following requirements:
 - i. Interconnected smoke detectors shall be installed in all livable areas.
 - ii. Approved evacuation maps and emergency procedures shall be posted.
 - iii. Portable fire extinguishers shall be mounted at locations approved by the fire code official.
- c. Amend R-4 Residential Group occupancies shall include buildings arranged for occupancy as Residential Care/Assisted Living Facilities including more than five but not more than 16 occupants, excluding staff. These facilities include:
 - i. Group Youth Homes
 - ii. Senior Homes

Residential Care / Assisted Living Facilities shall meet the following requirements:

- iii. Interconnected smoke detectors shall be installed in all livable areas.
 - iv. Approved evacuation maps and emergency procedures shall be posted.
 - v. Portable fire extinguishers shall be mounted at locations approved by the fire code official.
 - d. Add READILY ACCESSIBLE. Access that is capable of being reached safely and quickly for operation, repair, or inspection without requiring those to whom ready access is requisite to climb over or remove obstacles, or to resort to the use of portable access equipment.
 - e. Add SPECIAL USE PERMIT. A permit issued by the appropriate department of the Town of Fountain Hills, AZ allowing a specific activity, event, or condition to occur for a prescribed period.
12. Amend Section 307.2.1 Authorization. Approval of any open burning addressed in this section shall only be permitted with approval from the State of Arizona and/or Maricopa County air and water quality management authority, provided that all conditions specified in the authorization and this section are followed.
13. Add Section 401.3.2.1 Resetting of alarms. No person shall reset a fire or emergency alarm system, alarm initiating device, or alarm component until the fire department arrives. Exception: The person responsible for the property may investigate the building or area of alarm and if no evidence of fire or emergency is found, the system may be silenced, but not reset, until the fire department arrives.

14. Amend Section 503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 22 feet, except for approved security gates in accordance with section 503.6, and unobstructed vertical clearance of not less than 15 feet.
15. Amend Section 503.2.4 Turning radius. The required turning radius of a fire apparatus access road shall be a minimum turning radius of 35 feet inside and 55 feet outside for the required fire apparatus access road.
16. Amend Section 503.2.7 Grade. All access roads, whether temporary or permanent, shall not exceed 12%. All fire access roads greater than 6% must have prior approval from the fire code official. Sprinklered vs. non-sprinklered properties shall have different requirements with a maximum grade of 15%.
17. Add Section 504.4 Fire department apparatus access to roof. For buildings 2 or more stories in height, maintain a minimum of a 50-foot flat area at grade at two corners of the building for fire department operations and apparatus placement.



18. Amend Section 505.1 Address numbers. New and existing buildings shall have approved address numbers, building numbers, or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be of the font and size approved by the building and development department in accordance with the Town of Fountain Hills Zoning requirements. At a minimum, letters and numerals shall be a minimum of 4 inches high with a brush stroke width of .5 inch to identify individual suites and/or tenant spaces. Additionally, all rear doors to suites and/or tenant spaces shall display the business name and suite number.
19. Add Section 506.1.1.1 Key switch and sensor pre-emption location. A Knox key switch and a pre-emption sensor shall be required on all powered entry control gates. Key switches shall be installed in a location on the gate control panel that is readily visible and accessible. The pre-emption sensor shall be at or behind the gate.
20. Amend Section 507.5 Fire hydrant systems. Fire hydrant systems shall meet the Town of Fountain Hills' minimum standards and shall be designed and installed in accordance with the applicable standards established by the Town of Fountain Hills, AZ.
21. Amend 507.5.1 Fire hydrant spacing. All fire hydrants shall be spaced on fire apparatus access roads as follows:

- a. Non-Hillside. One- and two-family dwelling (IRC and R-3) developments, the maximum distance shall be 600 feet on center.
 - b. Hillside. One- and two-family dwelling (IRC and R-3) developments, the maximum distance shall be 600 feet on center. "Hillside" street grades shall be considered any grade exceeding 8% or more grade.
 - c. Fire sprinkler. Commercial, R-1, and R-2 multifamily developments, the maximum distance shall be 600 feet on center.
 - d. Hillside cul-de-sacs. The maximum distance shall be 300 feet on center to any hydrant from end of a cul-de-sac.
22. Add Section 507.5.7 Distance to fire department connections (FDC). Fire hydrants shall be placed to ensure that the distance to fire department connections shall not exceed 100 feet.
23. Add Section 507.5.8 Fire hydrant color. All fire hydrants shall have aboveground barrels painted with a prime coat plus two coats of OSHA yellow paint.
24. Add Section 507.5.8.1 Reclaimed water fire hydrant color. All fire hydrants using a reclaimed water supply shall have the caps and bonnet painted with a prime coat plus two coats of black paint. A "DO NOT DRINK WATER" placard shall be affixed to the hydrant in both English and Spanish.
25. Add Section 507.5.9 Reflective markers. All fire protection equipment, fire department connections and hydrants shall be clearly identified by installation of reflective blue markers. See Town of Fountain Hills Standard Detail FH305.
26. Add under FIRE PROTECTION SYSTEMS 902 Definitions.
- a. DETACHED. For the purpose of Chapter 9 FIRE PROTECTION SYSTEMS, detached shall mean separated from the main building or structure by a minimum of 10 feet.
27. Add Section 903.2 Where required. An automatic sprinkler system shall be installed throughout all levels of all new occupancies of more than 0 square feet, to include all garages, and car-ports.

Exceptions: Unless the use of the facility otherwise requires an automatic fire sprinkler system, fire sprinkler systems shall not be required for the following:

- a. Detached gazebos and Ramada's for residential or public use.
- b. Detached guard houses less than 300 square feet in floor area.
- c. Detached storage sheds for private, residential, non-commercial use less than 200 square feet in floor area.
- d. Detached non-combustible canopies less than 1500 square feet in roof area used exclusively for vehicle washing facilities or vehicle fuel dispensing stations.
- e. Other buildings or structures accessory to and located on the same lot with one and two family dwellings or R-3 occupancies, not including residential care or assisted living facilities in R-3 occupancies.
- f. Shade canopies less than 5,000 square feet; not closer than 5 feet to any building, property line or other shade canopy; and shading one of the following: vehicles for

sale at a dealership, playground equipment, or outdoor eating areas without cooking.

- g. Shipping containers used for storage purposes and not closer than 5 feet to any building, property line or other container.
 - h. Exterior roofs, overhangs or canopies of Type I, II or III construction with no combustible storage beneath.
 - i. Exterior covered/enclosed walkways of Type I, II or III construction with enclosing walls that are at least 50 percent open.
 - j. Temporary Special Amusement Buildings.
 - k. Pre-manufactured structures used exclusively as a construction office up to 5000 square feet and not closer than 5 feet to any other structure or property line. This exception shall apply during the course of the construction permit issued by the Town of Fountain Hills.
 - l. Detached parking canopies.
 - m. Manufactured homes built on a permanent chassis, designed and constructed as a dwelling unit. Exception: Newly manufactured homes equipped with automatic sprinkler systems will be tied into a water supply.
28. Add Section 903.2.3 Group E. An automatic sprinkler system shall be installed throughout all Group E occupancies in accordance with NFPA 13 Installation of Sprinkler Systems.
29. Add Section 903.2.4 Group F. An automatic sprinkler system shall be installed throughout all Group F occupancies in accordance with NFPA 13 Installation of Sprinkler Systems.
30. Add 903.2.5 Group H. An automatic sprinkler system shall be installed throughout all Group H occupancies in accordance with NFPA 13 Installation of Sprinkler Systems. The design of the sprinkler system shall not be less than that required under the Town of Fountain Hills Building Code for the occupancy hazard classifications in accordance with Table 903.2.5.2 Group H-5 Sprinkler Design Criteria.

Where the design area of the sprinkler system consists of a corridor protected by one row of sprinklers, the maximum number of sprinklers required to be calculated is 13.

TABLE 903.2.5.2

Group H-5 Sprinkler Design Criteria

LOCATION	OCCUPANCY HAZARD CLASSIFICATION
Fabrication areas	Ordinary Hazard Group 2
Service corridors	Ordinary Hazard Group 2
Storage room without dispensing	Ordinary Hazard Group 2
Storage rooms with dispensing	Extra Hazard Group 2
Corridors	Ordinary Hazard Group 2

31. Add Section 903.2.6 Group I. An automatic sprinkler system shall be installed throughout all Group I occupancies in accordance with NFPA 13 Installation of Sprinkler Systems.

Exception: In jails, prisons and reformatories, the piping system may be dry, provided a manually operated valve is installed at a continuously occupied location. Opening of the valve will cause the piping system to be charged. Sprinkler heads in such systems shall be equipped with fusible elements or the system shall be designed as required for deluge systems in the Building Code.

32. Add Section 903.2.7 Group M. An automatic sprinkler system shall be installed throughout all Group M occupancies in accordance with NFPA 13 Installation of Sprinkler Systems.
33. Add Section 903.2.8 Group R. An automatic sprinkler system shall be installed throughout all Group R occupancies in accordance with NFPA 13 Installation of Sprinkler Systems.
34. Add Section 903.2.9 Group S-1. An automatic sprinkler system shall be installed throughout all Group S-1 occupancies in accordance with NFPA 13 Installation of Sprinkler Systems.
35. Add 903.2.10 Group S-2. An automatic sprinkler system shall be installed throughout all Group S-2 occupancies in accordance with NFPA 13 Installation of Sprinkler Systems.
36. Add Section 903.2.13 Change of occupancy. An automatic sprinkler system complying with Section 903.3 shall be provided for an existing building or portion thereof undergoing a change of occupancy as follows, based upon the relative hazard levels indicated in Table 903.2.15:
 - a. When a change of occupancy is made to a higher hazard level as shown in Table 903.2.13, the building shall be provided with an automatic fire sprinkler system.
 - b. When a change of occupancy is made within hazard level 1 as shown in Table 903.2.13, the building shall be provided with an automatic fire sprinkler system.

Table 903.2.13

Existing Building Hazard Levels

Hazard Level	Building Occupancy Type
1 (highest)	H, I, R-1, R-2, R-4
2	A-2, A-5
3	A-1, A-3, A-4
4	E, F-1, M, S-1
5 (lowest)	B, F-2, R-3, S-2, U

Note: Occupancies as defined in this Code and the Fountain Hills Building Code.

37. Add Section 903.2.14 Additions, alterations and repairs. When additions, alterations, or repairs within a twelve-month period exceed 50 percent of the square footage of the existing building or structure, such building or structure shall be made to conform to the requirements for new buildings or structures.

38. Add Section 903.2.15 Partial systems prohibited. In all new additions to existing non-sprinklered buildings and structures, an automatic sprinkler system shall be installed throughout the entire structure. There shall be no partially sprinklered compartments.
39. Amend Section 903.3 Installation requirements. Automatic sprinkler systems shall be designed and installed in accordance with the applicable NFPA Standards.
40. Amend Section 903.3.5 Water supplies. Water supplies for automatic sprinkler systems shall comply with this section and the standards referenced in Section 903.3.1. The potable water supply shall be protected against backflow in accordance with the requirements of the Town of Fountain Hills.
41. Amend Section 903.3.6 Hose Threads. All fire hose threads used in conjunction with automatic sprinkler system shall be National Hose Thread (NHT).
42. Amend Section 903.3.7 Fire department connections (FDC). The location of the fire department connections shall be in accordance with Section 912 and approved by the fire code official. All FDC connections shall be locking 4" Storz connection approved by the fire code official.
43. Add Section 903.3.7.1 Fire riser room. All fire riser rooms shall have exterior access doors, with Knox box on the exterior, and all NFPA signage.

Exception: Existing buildings.

44. Add Section 905.3.1.1 Building area. In buildings exceeding 10,000 square feet in area per story, Class I automatic wet standpipes shall be provided and where any portion of the building's interior area is more than 200 feet of travel, vertically and horizontally, from the nearest point of fire department vehicle access.

Exceptions:

- a. Single story structures are not required to have hose connections, except in those interior portions of the building that exceed 200 feet of travel from an emergency access road.
 - b. Required wet standpipes may be an integral part of an approved sprinkler system and may be connected to the sprinkler systems horizontal cross-mains. Calculations for required hose demand shall be submitted with sprinkler plans.
45. Add Section 905.3.4 Stages. Stages greater than 1,000 square feet in area shall be equipped with a Class I wet standpipe system with 2.5-inch hose connections on each side of the stage supplied from the automatic fire sprinkler system and shall have a flow rate of not less than that required for Class 1 standpipes.
 46. Delete Section 905.5.3.4.1 Hose and cabinet.
 47. Amend Section 912.2.1 Visible Location. Fire department connections shall be located at a corner of the building being protected, within 4 feet to 8 feet of the curb line of an access road or public street, 40 feet or one and one half times the height of the building being protected, whichever is more, or as approved by the fire code official. The fire department connection line shall be a wet line with the check valve at the hose connection above grade.

48. Add Section 912.2.3 Maximum distance to fire department connections. Fire department connections for all occupancies shall be within 100 feet of a fire hydrant.
49. Amend Section 2301.4 Indoor motor fuel-dispensing facilities. Locating motor vehicle fuel-dispensing stations inside buildings is prohibited within the entire Town.
50. Amend Section 2306.2.2 Above-ground tanks located inside buildings. Above-ground tanks for the storage of Class I, II, and IIIA liquid fuels are prohibited within the entire Town of Fountain Hills, AZ.
51. Amend Section 2306.2.3 Above-ground tanks located outside, above grade. Above-ground tanks for the storage of Class I, II, and IIIA liquid fuels outside of buildings are prohibited within the entire Town of Fountain Hills, AZ.
52. Add 2404.1 Spray-finishing operations shall not be conducted outside of approved structures.

Exceptions:

- a. Spray coating of buildings or dwellings, including appurtenances and any other ornamental objects that are not normally removed prior to coating.
 - b. Spray coating of facility equipment or structures, which are fixed in a permanent location and cannot easily be moved into an enclosure or spray booth and which are not normally dismantled or moved prior to coating.
 - c. Spray coating of objects, which cannot fit inside of an enclosure with internal dimensions of 10'W X 25'L X 8'H, excluding vehicles.
 - d. Coating operations utilizing only hand-held aerosol cans.
53. Amend Section 3201.2 Permits. A permit shall be submitted to the Town of Fountain Hills, Engineering and Construction Department, along with HMIS for reportable quantities.
 54. Add to Section 5601 General. The display of fireworks, including proximate audience displays and pyrotechnic special effects in motion picture, television, theatrical, and group entertainment productions, shall comply with this chapter, Article XIII Fireworks and Pyrotechnics of the Town of Fountain Hills Code of Ordinances, and NFPA 1123 or NFPA 1126.
 55. Amend Section 5706.2.4.4 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the entire Town.

Exception: Installations of tanks capable of holding 2,000 gallons (7,570.8 L), either individually or in the aggregate, may be approved.

56. Add under LIQUIFIED PETROLEUM GASES Add Table 6104.3, Footnote e. 5. A container less than 125 gallons may be located next to a block fence when the tank is not within 5 feet of a structure on adjoining property.
57. Add Section 6109.1.1 Pre-filled portable cylinders for consumer exchange. The installation of pre-filled portable cylinders for consumer exchange shall comply with the following requirements:

- a. A construction permit is required for the installation of or modification to pre-filled portable cylinders for consumer exchange in accordance with section 105.7.8.
- b. Storage is limited to one cage, containing up to twenty-five (25), twenty (20) pound propane cylinders (500 pounds) without any separation from a structure. A second cage may be installed next to a structure on the same property as long as a minimum of 20 feet separation is maintained between the two cages.
- c. A site plan for the installation shall be submitted to the Town of Fountain Hills Planning and Development Department. The site plan shall indicate the sizes and locations of the pre-filled portable cylinders for consumer exchange cage, as well as the separation distances between cages, the distances to property lines, structures, and public ways.
- d. The cage shall not be located within 5 feet of any doorway or opening in a building frequented by the public and 5 feet from any exterior source of ignition, openings into direct-vent (sealed combustion system) appliances or mechanical ventilation air intakes.
- e. The cage shall be located so that any discharge from a propane cylinder pressure relief device is at least 3 feet horizontally away from any building opening below the level of such discharge.
- f. The cage shall be a lockable ventilated metal locker or rack that prevents tampering and pilferage.
- g. The cage shall be designed so that containers cannot be stacked on top of each other and designed so that containers are positioned upright with the pressure-relief valve in direct communication with the vapor space of the container.
- h. Defective containers or containers showing denting, bulging, or excessive corrosion shall be removed from service and properly disposed of.
- i. The cage and area shall be kept free and clear of all combustible materials, including storage, for a distance of at least 10 feet on all sides.
- j. NO SMOKING signs shall be posted on the cage and within 25 feet of the surrounding area.
- k. Approved NFPA 704 hazard identification signs shall be posted on the cage.
- l. Signs listing exchange procedures, company name, and 24-hour phone numbers shall be posted on the cage.
- m. Signs requiring that customers leave LPG containers outside shall be posted at all building entrance(s).
- n. All employees with access to the exchange cage shall be trained in the proper handling and operating procedures, including the procedure for handling defective containers. Documentation of this training shall be provided to the Fire Prevention Division upon final inspection.
- o. A written inspection checklist for receiving empty containers as well as giving out full cylinders shall be available and used by employees when handling containers.

- p. Provisions shall be made for controlling and mitigating unauthorized discharges. A Hazardous Materials Management Plan shall be readily available on site.
 - q. A minimum of one 2A20BC fire extinguisher shall be located not less than 25 feet, but within 75 feet from the cage area.
 - r. Cages exposed to probable vehicular damage due to proximity to alleys, driveways, or parking areas, shall be protected in accordance with Section 312.
 - s. A final inspection by the Fire Prevention Division is required prior to the cage being put into service.
58. Add APPENDICES. All 2024 International Fire Code Appendices shall be adopted, except Appendix A, and Appendix O. The following Appendices shall be added to the Town of Fountain Hills, AZ 2024 IFC amendments.
- a. APPENDIX P

CONTROL AND SUPPRESSION OF HAZARDOUS FIRE AREAS

Section P-101 General.

P-101.1 Scope. The unrestricted use of grass, grain, brush, or forest-covered land in hazardous fire areas is a potential menace to life and property from fire and resulting erosion.

Section P-103 Permits.

P-103.1 Permits. Permits for any use within hazardous fire areas shall be issued with the approval of Town of Fountain Hills administration, utilizing the current permit process. Permits shall not be issued when public safety would be at risk, as determined by the fire code official.

Section P-104 Restricted Entry.

P 104.1 Restricted entry. The fire code official shall determine, and make recommendations to Town of Fountain Hills Administration, when hazardous fire areas shall be closed to entry and when such areas shall again be opened.

Exception:

1. Entry, in the course of duty, by peace or police officer, and other duly authorized public officers, members of a fire department and members of the United States Forest Service.

Section P-105 Trespassing on Posted Property.

P-105.1 General. When the Town of Fountain Hills Administration approves the recommendation from the fire code official that a specific area within a hazardous fire area presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to

public, such areas shall be closed until changed conditions warrant termination of closure. Such areas shall be posted as hereafter provided.

P-105.2 Signs. Approved signs prohibiting entry by unauthorized persons and referring to Appendix H shall be placed on every closed area.

P-105.3 Trespassing. Entering and remaining within areas closed and posted is prohibited.

Exception: Local state and federal public officers and their authorized agents acting in the course of duty.

Section P-107 Spark Arresters.

P-107.1 Spark arresters. Chimneys used in conjunction with fireplaces, barbecues, incinerators or heating appliances in which solid or liquid fuel is used, upon buildings, structures, or premises located within 200 feet of hazardous fire areas, shall have a spark arrester constructed with heavy wire mesh or other noncombustible material with openings not to exceed ½ inch.

Section P-108 Tracer Bullets, Tracer Charges, Rockets, Model Aircraft, Aerial Lanterns.

P-108.1 General. Tracer bullets and tracer charges shall not be possessed, fired, or caused to be fired into or across hazardous fire areas. Aerial lanterns, which have open flames to conduct lift, and rockets, model planes, aerial drones, gliders, and balloons powered with a combustion engine, propellant, or other feature liable to start or cause fire shall not be fired or projected into or across hazardous fire areas.

Section P-109 Explosives and Blasting.

P-109.1 Explosives and blasting Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported, or disposed of within hazardous fire areas, except by permit from the fire code official.

Section P-110 Fireworks.

P-110.1 Fireworks. Fireworks shall not be used or possessed in hazardous fire areas, except by permit from the fire code official. The fire code official is authorized to seize, take, remove, or cause to be removed fireworks.

Section P-111 Apiaries.

P-111.1 Apiaries. Lighted and smoldering material shall not be used in connection with smoking bees in or upon hazardous fire areas, except by permit from the fire code official.

Section P-112 Open-Flame Devices.

P-112.1 Open-flame devices. Welding torches, tar pots, decorative torches, and other devices, machines, or processes liable to start or cause fire shall not be operated or used in or upon hazardous fire areas, except by permit from the fire code official.

Exceptions:

1. Use within habited premises or designated campsites which are a minimum of 30 feet from grass-, grain-brush- or forest-covered areas.
2. The proper use of fuses at the scene of emergencies or as required by standard operating procedures.

Section P-113 Outdoor Fires.

P-113.1 Outdoor fires. Outdoor fires shall not be built, ignited, or maintained in or upon hazardous fire areas, except by permit from the fire code official.

Exception: Outdoor fires within habited premises or designated campsites where such fires are built in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator, or grill and are a minimum of 30 feet from a grass-, grain-, brush-, or forest-covered area.

Permits shall incorporate such terms and conditions, which will reasonably safeguard public safety and property. Outdoor fires shall not be built, ignited, or maintained in or upon hazardous fire areas under the following conditions:

1. When high winds are blowing,
2. When a person age 17 or over is not present at all times to watch and tend fire, or
3. When public announcement is made that open burning is prohibited.

Permanent barbecue, portable barbecues, outdoor fireplaces, and grills shall not be used for the disposal of rubbish, trash, or combustible waste material.

Section P-114 Incinerators and Fireplaces.

P-114.1 General: Incinerators, outdoor fireplaces, permanent barbecues, and grills shall not be built, installed, or maintained in hazardous fire areas without prior approval of the fire code official. Incinerators, outdoor fireplaces, permanent barbecues, and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall have an approved spark arrester, screen, or door.

Section P-115 Clearance of Brush and Vegetative Growth from Electrical Transmission Lines.

P-115.1 General. Clearance of brush and vegetative growth from electrical transmission lines shall be in accordance with IFC 2018, and NFPA.

P-115.2 Support clearance. Persons owning, controlling, operating, or maintaining electrical transmission lines upon hazardous fire areas shall, at all times, maintain around and adjacent to poles supporting a switch, fuse, transformer, lightning arrester, line junction, dead end, corner pole, towers, or other poles or towers at which power company employees are likely to work must have an effective firebreak consisting of a clearing of not less than 10 feet in each direction from the outer circumference of such pole or tower.

Exception: Lines used exclusively as telephone, telegraph, messenger call, alarm transmission, or other lines classed as communication circuits by a public utility.

P-115.3 High tension line clearance. Persons owning, controlling, operating, or maintaining electrical transmission lines upon hazardous fire areas shall maintain the clearance specified in Section 15.3 in all directions between vegetation and conductors carrying electrical current:

1. For lines operating at 2,400 volts and less than 68,000 volts, 4 feet.
2. For lines operating at 68,000 volts and less than 110,000 volts, 6 feet.
3. For lines operating at 110,000 volts and over, 10 feet.

Such distance shall be sufficiently great to furnish the required clearance from the particular wire or conductor to positions of such wire or conductor at temperatures of 120 F or less. Forked, dead, old, decadent and rotten trees; trees weakened by cat faces, decay, or disease; and trees leaning toward the line, which could contact the line from the side or fall on the line, shall be felled, cut, or trimmed to remove the hazard.

P-115.4 Self-supporting aerial cable. Line clearance is not required for self-supporting aerial cable, except that forked trees, leaning trees, and other growth, which could fall across the cable and break it, shall be removed.

Section P-116 Clearance of Brush or Vegetation growth from Structures.

P-116.1 General. Persons owning, leasing, controlling, operating, or maintaining buildings or structures in, upon or adjoining hazardous fire areas, and persons owning, leasing, or controlling land adjacent to such buildings or structures, shall at all times:

1. Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet of such buildings or structures;

Exception: Single specimens of trees, ornamental shrubbery, or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.

2. Maintain additional fire protection or firebreak by removing brush, flammable vegetation, and combustible growth located from 30 feet to 100 feet from such buildings or structures, when required by the fire code official because of extra-hazardous conditions causing a firebreak of only 30 feet to be insufficient to provide reasonable fire safety;

Exception: Grass and other vegetation located more than 30 feet from buildings or structures and less than 18 inches in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

3. Remove portions of trees, which extend within 10 feet (3048 mm) of the outlet of chimney;

4. Maintain trees adjacent to or overhanging a building free of deadwood; and

5. Maintain the roof of a structure free of leaves, needles or other dead vegetative growth.

P-116.2 Corrective actions. Town of Fountain Hills Administration is authorized to instruct the fire code official to give notice to the owner of the property upon which conditions regulated by Section 16.1 exist to correct such conditions. If the owner fails to correct conditions, the Town of Fountain Hills Administration shall cause the same to be done and make the expense of such correction a lien upon the property where such condition exists.

Section P-117 Clearance of Brush or Vegetation Growth from Roadways.

P-117.1 Clearance of brush or vegetation. The fire code official is authorized to cause areas within 10 feet on each side of portions of highways and private streets, which are improved, designed, or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth. The fire code official is authorized to enter upon private property to do so.

Exception: Single specimens of trees, ornamental shrubbery, or cultivated ground such as green grass, ivy, succulents or similar plants used as ground cover, provided that they do not form a means of readily transmitting fire.

Section P-118 Unusual Circumstances.

P-118.1 Unusual circumstances. If the fire code official determines that difficult terrain, danger of erosion, or other unusual circumstances make strict compliance with the clearance of vegetation provisions of Sections 115, 116, or 117 of Appendix

O undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.

Section P-119 Dumping.

P-119.1 Dumping. Garbage, cans, bottles, papers, ashes, refuse, trash, or rubbish or combustible waste material shall not be placed, deposited, or dumped in or upon hazardous fire areas or in, upon all along trails, roadways or highways in hazardous fire areas.

Exceptions: Approved public and private dumping areas

Section P-120 Disposal of Ashes.

P-120.1 Disposal of ashes. Ashes and coals shall not be placed, deposited, or dumped in or upon hazardous fire areas.

Exceptions:

1. In the hearth of an established fire pit, camp stove, or fireplace.
2. In a noncombustible container with a tight-fitting lid, which is kept or maintained in a safe location not less than 10 feet from combustible vegetation or structures.
3. Where such ashes or coals are buried and covered with 1 foot of mineral earth not less than 25 feet from combustible vegetation or structures.

Section P-121 Use of Fire Roads and Firebreaks.

P-121.1 Use of fire roads and firebreaks. Motorcycles, motor scooters, and motor vehicles shall not be driven or parked upon, and trespassing is prohibited upon, fire roads or firebreaks beyond the point where travel is restricted by a cable, gate, or sign. Vehicles shall not be parked in a manner, which obstructs the entrance to a fire road or firebreak.

Exception: Public officers acting within their scope of duty.

Radio and television aerials, guy wires thereto, and other obstructions shall not be installed or maintained on fire roads or firebreaks unless located 16 feet or more above such fire road or firebreak.

Section P-123 Tampering with Fire Department Locks, Barricades, and Signs.

P-123.1 Tampering with fire department locks, barricades, and sign. Locks, barricades, seals, cables, signs, and markers installed within hazardous fire areas, by or under the control of the fire code official, shall not be tampered with, mutilated, destroyed, or removed.

Section P-124 Liability for Damage.

P-124.1 Liability for damage. The expenses of fighting fires, which result from a violation of Appendix O, shall be a charge against the person whose violation of Appendix O caused the fire. Damages caused by such fires shall constitute a debt of such person and are collectable by the Town of Fountain Hills Administration in the same manner as in the case of an obligation under a contract, expressed or implied.

b. APPENDIX Q

TOWN OF FOUNTAIN HILLS FIRE-RELATED INCIDENTS CITATION PROGRAM

SECTION Q-101 Classification of Penalty.

Q-101 Classification of penalty. The following classifications shall apply to any violations of Appendix I:

1. Any person, firm, corporation, partnership, enterprise, or association, whether as principal, owner, agent, tenant, or otherwise, who violates, disobeys, omits, or refuses to comply with, or who resists the enforcement of any of the provisions of this code, is subject to a civil sanction.
2. Notwithstanding subsection 1 of this section, a second or subsequent violation of any of the provisions of this chapter within a two-year period shall be deemed a misdemeanor.

SECTION Q-102 Civil Penalties.

Q-102 Civil penalties.

1. Upon a finding of responsible to civil violation, the court shall impose a fine not to exceed one thousand dollars (\$1,000.00).

Exception: As otherwise set forth in this code.

2. Upon a conviction of a misdemeanor, the defendant shall be sentenced pursuant to the provisions established by the Town of Fountain Hills Court System.

Exception: As otherwise determined by the court of jurisdiction, if other than the Town of Fountain Hills Court System.

3. The application of the penalties provided for in paragraphs subsections 1 and 2 of this section shall not be held to prevent the enforced removal of prohibited conditions.

Q-103 Civil violation, commencement of action.

1. A civil violation may be commenced by issuance of a citation or by long form complaint. The civil violation shall be considered as follows:

- a. By having the defendant sign the citation with a promise to appear in court on the specified date and time.
- b. If the defendant refuses to sign the citation, by hand delivering a copy of the citation to the defendant.
- c. By mailing a copy of the citation to the person charged at his last known address, by certified or register mail, return receipt requested.

In the event service cannot be accomplished as set forth in 1-a., b., or c., the court of jurisdiction may serve the defendant by any means allowed by the Town of Fountain Hills Procedures or the Arizona Rules of Civil Procedure for the Superior Court.

2. The citation will be substantially in the same form as the Arizona Traffic Ticket and Complaint and shall direct the defendant to appear in the court of jurisdiction on the scheduled date and at the scheduled time.

3. The citation will further notify the defendant that if he fails to appear on or before the date and time specified in the complaint, a judgment by default will be entered against him, and the court may, in its discretion, impose a civil sanction not to exceed one thousand dollars (\$1,000.00).

4. Minor civil citations may be issued for non-compliance with the amended International Fire Code, Town of Fountain Hills Code of Ordinances

Q-104 Authority to issue citation. Any peace officer, the fire code official, or duly authorized agent of the fire code official may issue a civil citation pursuant to this code.

Q-105 Appearance.

1. The defendant shall, at the specified date and time, appear in person or through his attorney in the court of jurisdiction and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegation, the court shall enter judgment against the defendant and, in its discretion, may impose a civil sanction for the violation. If the defendant denies the allegations contained in the citation, the court shall set dates for a pre-trial conference and for trial of the matter.

2. If the defendant fails to appear for pre-trial conference or trial, the defendant's failure to appear shall be deemed an admission of the offense and the court shall enter judgment against the defendant and may, in its discretion, impose a civil sanction for the violation.

Q-106 Rules of procedure. The Arizona Rules of Court for Civil Traffic Violation Cases may be followed by the city court for civil violations of this chapter.

Exception: As modified or where inconsistent with the provisions of this article, local rules of the city court, or rules of the Arizona Supreme Court.

Q-107 Collection of fines. Any judgment for civil sanctions taken pursuant to this article may be collected as any other civil judgment.

Q-108 Violations not exclusive. Violations of this chapter are in addition to any other violation enumerated within the Town of Fountain Hills Code of Ordinances and this code and in no way limit the penalties, actions, or abatement procedures which may be taken by the Town for any violation of this code which is also a violation of any other ordinance or tribal, state, or federal laws.

Q-109 Each day a separate violation. Each day any violation of any provision of this code or the failure to perform any act or duty required by this code continues shall constitute a separate offense.

F. The 1997 Uniform Code for the Abatement of Dangerous Buildings is amended in the following respects:

1. Adding the following definition to Section 302: 19. Whenever there has been a cessation of normal construction of any structure or building for a period of more than one (1) year and the building or structure remains unfinished.

Section 7-1-3 Fees

A. Permit Fees.

1. The permit fee for all new structures, excavations, or other construction activity, including all renovation, remodeling and repairs, shall be in such amount as approved by the Council by resolution or as part of the Town's annual budget. All permit fees must be paid, in full, prior to issuance of a building permit.

2. When a plan or other data for all new structures, excavations, or other construction activity, including all renovation, remodeling and repairs, is required to be submitted, permit fee shall be paid prior to issuance of the permit.

B. Planning, Building and Engineering Fees. The Fees for services provided by the planning division, the building division and the engineering division shall be established by the Town Council as part of the annual budget process or as otherwise adopted by Town Council resolution. All planning, building and engineering fees must be paid, in full, prior to issuance of a building permit.

D. Third Party Plan Review and Inspection Fees. If new structures, excavations, or other construction activity, including all renovation, remodeling and repairs, are subject to third party review or inspections, the fees for such plan review and inspection shall be paid to the Town.

E. Development Impact Fees. Development impact fees shall be paid at the time set forth in Article 7-2 of the Fountain Hills Town Code, as amended.

F. Payment of Outstanding Fees or Taxes. Any outstanding fees or taxes owed by the applicant to the Town for any purpose must be paid to the Town prior to issuance of a building permit; if no building permit is necessary, or if a building permit has already been issued, any outstanding fees or taxes owed by the applicant to the Town for any purpose must be paid to the Town prior to issuance of a certificate of occupancy.

7-1-4 Building Official

The building official and administrative authority, as such may be referenced in any section of this chapter for all matters pertaining to any building, plumbing, electrical or any other inspections, shall be vested in the office of the Town manager or such other person the manager may appoint subject to council approval.

7-1-5 Fireplace Regulations

A. Definitions. For the purposes of this Section, the following words and terms shall have the meaning ascribed thereto:

1. "Fireplace" means a built-in place masonry hearth and fire chamber or a factory-built appliance designed to burn solid fuel or to accommodate a gas or electric log insert or similar device, and which is intended for occasional recreational or aesthetic use, not for cooking, heating, or industrial processes.
2. "Solid fuel" means and includes, but is not limited to, wood, coal or other nongaseous or nonliquid fuels, including those fuels defined by the Maricopa County Air Pollution Control Officer as "inappropriate fuel" to burn in residential woodburning devices.
3. "Woodstove" means a solid-fuel burning heating appliance including a pellet stove, which is either freestand or designed to be inserted into a fireplace.

B. On or after January 4, 1999, no person, firm or corporation shall construct or install a fireplace or a woodstove, and the Town shall not approve or issue a permit to construct or install a fireplace or a woodstove, unless the fireplace or woodstove is one of the following:

1. A fireplace which has a permanently installed gas or electric log insert;
2. A fireplace, woodstove or other solid-fuel burning appliance that has been certified by the United States Environmental Protection Agency as conforming to 40 CFR Part 60, Subpart AAA, or any amendments thereto;
3. A fireplace, woodstove or other solid-fuel burning appliance that has been tested and listed by a nationally recognized testing agency to meet performance standards equivalent to those adopted by 40 CFR Part 60, Subpart AAA, or any amendments thereto;

4. A fireplace, woodstove or other solid-fuel burning appliance that has been determined by the Maricopa County Air Pollution Control Officer to meet performance standards equivalent to those adopted by 40 CFR Part 60, Subpart AAA, or any amendments thereto; or

5. A fireplace that has a permanently installed woodstove insert that complies with paragraphs 2, 3 or 4 above.

C. The following installations are not regulated and are not prohibited by this Section:

1. Furnaces, boilers, incinerators, kilns and other similar space heating or industrial process equipment;

2. Cookstoves, barbecue grills and other similar appliances designed primarily for cooking; and

3. Firepits, barbecue grills and other outdoor fireplaces.

D. Fireplaces constructed or installed on or after January 4, 1999, that contain a gas or electric log insert or a woodstove insert shall not be altered to directly burn wood or any other solid fuel.

E. On or after January 4, 1999, no person, firm or corporation shall alter a fireplace, woodstove or other solid fuel burning appliance in any manner that would void its certification or operational compliance with the provisions of this Section.

F. In addition to the provisions and restrictions of this Section, construction, installation or alteration of all fireplaces, woodstoves and other gas, electric or solid-fuel burning appliances and equipment shall be done in compliance with the provisions of the Town Code and shall be subject to permits and inspections required by the Town.

G. Fireplaces constructed or installed on or after January 4, 1999, shall not be altered without first obtaining a permit from the Town to ensure compliance with this Section.

Section 7-1-6 Utility Poles and Wires

A. Definitions. In this article, unless the context requires otherwise,:

1. "Distribution feeder" means that portion of the distribution system feeding from a distribution substation to a specific load area having a capacity of over three thousand KVA.

2. "Existing utility poles and wires" means such poles and wires and other facilities as are in place and in operation as of the effective date of this code and including repairs, replacements, relocations on the same alignment, additions, enlargements, betterments, changes or improvements hereinafter made to maintain or increase service capabilities of existing utility poles, wires, service drops and other facilities, but it does not include extensions made to existing distribution lines.

3. "Transmission line" means an electric line used for the bulk transmission of electricity between generating or receiving points and major substations or delivery points, having a rating of over twelve thousand volts.

4. "Utility poles and wires" means poles and structures, wires, cables, transformers and all other facilities used in or as a part of the distribution or transmission of telephone, telegraph, radio or television communications.

B. Permit for Erection; Exceptions. After the effective date of this code, no new utility poles and wires shall be erected in the Town above the surface of the ground unless a permit is first secured therefore from the Town manager or designee; except that the following construction may be installed without such a permit:

1. Temporary service facilities, such as facilities to furnish emergency service during an outage, facilities to provide service to construction sites, or other service of a limited duration, such as to a fair, carnival, outdoor exhibit or other function where the facilities will be installed for a temporary period only.
2. Pad-mounted transformers or pull boxes, service terminals, pedestal-type telephone terminals, telephone splice closures, or similar on-the-ground facilities normally used with and as a part of an underground electric distribution, telephone, telegraph or television system, or on-the-ground facilities attached to existing overhead facilities which are used for the purpose of connecting an underground system with the existing facilities.
3. Transmission lines and distribution feeder lines, together with related switch yards, substations and related equipment. Service drops from existing overhead lines to new single-family residential customers, except when underground service is required by the Town's subdivision regulations.

C. Procedure for Obtaining Permit; Denial and Appeal. Any person seeking a special permit for erection of any new utility poles and wires within the Town boundaries and above the surface of the ground shall first make application therefore to the Town manager or designee which application shall be approved or denied. In the event the permit is denied, the applicant may appeal the decision of the Town manager or designee by presenting his objections in writing to the council with a copy to the Town manager or designee within ten days of the Town manager's or his designee's denial. The Town manager or designee may grant the permit within five days or shall submit the appeal together with a written report of his recommendations to the council within twenty days of the date of receipt of the appeal. The council may hear arguments and shall decide the matter.

D. Standards for Issuance of Permits. A special permit for erection of new utility poles and wires may be granted only in the event the applicant makes an affirmative showing that the public's general health, safety and welfare and that of adjacent property owners will not be impaired, endangered or jeopardized by the proposed erection. In deciding such matter, the following factors shall be considered:

1. The location and height of such poles and wires and their relation to present or potential future roads.
2. The crossing of such lines over much traveled highways or streets; the proximity of such lines to schools, churches or other places where people congregate.

3. The probability of extensive flying in the area where such poles and wires are proposed to be located and the proximity to existing or proposed airfields.
4. Fire or other accident hazards from the presence of such poles and wires and the effect, if any, of same upon the effectiveness of fire fighting equipment.
5. The aesthetics involved.
6. The future conditions that may be reasonably anticipated in the area in view of a normal course of development.
7. The practicality and feasibility of underground installations of such facilities with due regard for the comparative costs between underground and overground installations; but a mere showing that an underground installation shall cost more than an overground installation shall not in itself necessarily require issuance of a permit.

7-1-7 Noise Regulations during Construction.

A. During the times hereinafter set forth, no construction activities of any kind, including but not limited to the making of an excavation, clearing of surface land and loading or unloading material, equipment or supplies, or the operation of mechanically powered tools anywhere in the Town limits, shall be permitted, when such activities result in the generation of mechanically or electrically created noise that can be heard by a person with normal hearing within a residential building, the windows of which are closed, if such building is located within five hundred (500) feet of the construction site.

B. The foregoing limitations shall apply to the following times:

1. Prior to 5:00 a.m. and after 7:00 p.m. Monday through Friday from May 1 through October 15.
2. Prior to 6:00 a.m. and after 6:30 p.m. Monday through Friday during the remainder of the year.
3. Prior to 7:00 a.m. and after 7:00 p.m. on Saturdays throughout the year.
4. At all times during Sundays and Legal Holidays.

C. The following activities shall be excluded from such prohibition:

1. Noise resulting from perishable activities, defined as all concrete flat work, termite pre-treatment application and the delivery of perishable landscaping materials shall be allowed as necessary.
2. Noise generated by work being performed by a resident of a building or structure may continue until 10:00 p.m. but may not begin earlier than the times set forth in subsection B of this section.
3. Noise resulting from emergencies, including but not limited to, repair of roofs, windows, doors, electrical, plumbing and mechanical (HVAC) shall be permitted whenever necessary. An

emergency shall be defined as any situation where work must be performed in order to prevent serious injury to persons or property.

7-1-8 Illegal Construction Site Activity

A. Purpose and Intent. The Town of Fountain Hills supports legal building activity in all its forms. The Town also recognizes that certain building activities may negatively impact adjacent property. While these impacts should be tolerated for the initial period of time associated with typical building activity, their prolonged existence can be a nuisance, particularly to adjacent neighbors. This Article is adopted for the purpose of mitigating the negative impacts that unreasonably prolonged building-related activities have on neighboring property.

B. Mitigation of Negative Impacts.

1. The owner of any property subject to a building permit for construction activity on that property shall not maintain on the property, or allow to be maintained on the property, construction activities that cause unreasonable negative health, safety or welfare impacts to neighboring properties.
2. If a building permit is expired for construction on property, the owner thereof shall immediately (1) remove, or cause to be removed, any construction equipment, materials and debris and (2) restore the property to as safe a condition as existed prior to commencement of construction activities thereon, as determined by the Building Official.
3. The Building Official shall:
 - a. Notify the property owner of any conditions on such property that are in violation of Subsection 7-1-8 B. 1. or 2. above by first class mail and,
 - b. Provide the property owner with a reasonable period of time to correct or mitigate the condition.

The Building Official shall determine if and when the condition has been corrected.

4. Should the condition continue beyond a reasonable period of time, as determined by the Building Official and included in the notice request under Subsection 7-1-8 3. above, the property shall be considered a nuisance pursuant to Article 10-2 of this Code and shall be subject to all penalties related thereto. In addition to prosecuting the nuisance in the manner described in this Code, the Town may, at its sole option, also cause the removal of such nuisance by any means permitted pursuant to Ariz. rev. Stat. § 9-499, as amended, or Article 10-4 of this Code.

C. Building Permit Extension of Time.

1. Prior to any extension of time granted to a property owner for a building permit, the Building Official shall inspect the property to ensure that no unsafe conditions exist, and that the property owner is not in violation of any provision of this Section 7-1-6.

2. Prior to extending any permit, the Building Official shall ensure that any stockpiled dirt or other construction material is fully contained on the property and does not exceed a height of twenty-five (25) feet, measured from natural grade.

Section 7-1-9 On-Site Restroom Facilities

All construction sites shall provide on-site restroom facilities for employees while construction is occurring in conformance with all of the following provisions:

- A. There shall be a minimum of one toilet provided on-site for every single-family residential construction project. When the same general contractor has two single-family residential construction projects on adjoining lots with the same street frontage, one toilet located as close as possible to the common property shall fulfill the requirements of this article for both sites.
- B. When there is a non-single-family residential construction site, there shall be one toilet facility for every five thousand square feet of building area. Any fraction thereof shall be rounded up to require the additional toilet facility.

Section 7-1-10 Enforcement of State Residential Rental Property Registration

- A. "Residential rental property" shall have the same meaning as provided by Ariz. Rev. Stat. § 33-1901, as amended.
- B. All owners of residential rental property located within the corporate boundaries of the Town shall register with the Maricopa County Assessor the information required by Ariz. Rev. Stat. § 33-1902, as amended, in the manner prescribed by the Assessor.

7-1-11 Construction Debris

Construction debris shall not remain uncontained for more than twenty-four hours and shall be contained at all times upon the premises.

7-1-12 Penalties and Enforcement

- A. Any person or entity who violates any of the provisions of this Chapter may be subject to one or more of the penalties prescribed in Article 1-8.
- B. This Section shall not be interpreted as limiting the penalties, actions or procedures that may be taken by the Town under established laws, ordinances, or technical codes adopted pursuant to Section 7-1-1.

Article 7-2 Development Fees

Section 7-2-1 Legislative Intent and Purpose

This Article is adopted for the purpose of promoting the health, safety and general welfare of the residents of the Town by:

- A. Requiring new development to pay its proportionate share of the costs incurred by the Town that are associated with providing Necessary Public Services to new development.
- B. Setting forth standards and procedures for creating and assessing development impact fees consistent with the requirements of Arizona Revised Statute ("A.R.S.") §9-463.05, as amended, including requirements pursuant to A.R.S. §9-463.05, Subsection K that, on or before August 1, 2014, the Town replace its development impact fees that were adopted prior to January 1, 2012, with development impact fees adopted pursuant to the requirements of A.R.S. §9-463.05 as amended by the state legislature in SB 1525, Fiftieth Legislature, First Regular Session.
- C. Providing for the temporary continuation of certain development impact fees adopted prior to January 1, 2012, until otherwise replaced pursuant to this Article, or longer where such development impact fees were Pledged to support Financing or Debt for a Grandfathered Facility as permitted by A.R.S. §9-463.05, Subsections K, R, and S.
- D. Setting forth procedures for administering the development impact fee program, including Offsets, Credits, and refunds of development impact fees. All development impact fee assessments, Offsets, Credits, or refunds must be administered in accordance with the provisions of this Article.

This Article shall not affect the Town's zoning authority or its authority to adopt or amend its General Plan; provided, that planning and zoning activities by the Town may require amendments to development impact fees as provided in Section 7-2-6 of this Article.

Section 7-2-2 Definitions

When used in this Article, the terms listed below shall have the following meanings unless the context requires otherwise. Singular terms shall include their plural.

Applicant: A person who applies to the Town for a Building Permit.

Appurtenance: Any fixed machinery or Equipment, structure or other fixture, including integrated hardware, software or other components, associated with a Capital Facility that are necessary or convenient to the operation, use, or maintenance of a Capital Facility, but excluding replacement of the same after initial installation.

Aquatic Center: A facility primarily designed to host nonrecreational competitive functions generally occurring within water, including, but not limited to, water polo games, swimming meets, and diving events. Such facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities, including but not limited to, locker rooms, offices, snack bars, bleacher seating, and shade structures.

Building Permit: Any permit issued by the Town that authorizes vertical construction, increases square footage, authorizes changes to land use, or provides for the addition of a residential or nonresidential point of demand to a Water or Wastewater system.

Capital Facility: An asset having a Useful Life of three or more years that is a component of one or more Categories of Necessary Public Service provided by the Town. A Capital Facility may include any associated purchase of real property, architectural and engineering services leading to the design and construction of buildings and facilities, improvements to existing facilities, improvements to or expansions of existing facilities, and associated financing and professional services. Wherever used herein, "infrastructure" shall have the same meaning as "Capital Facilities."

Category of Necessary Public Service: A class of Necessary Public Services for which the Town is authorized to assess development impact fees, as further defined in Subsection 7-2-7 A. 1. of this Article.

Category of Development: A specific class of residential, commercial, or industrial development against which a development impact fee is calculated and assessed. The Town assesses development impact fees against commercial, residential, and industrial categories.

Commercial Land Use: A use allowed within the zones designated in Chapters 12, 16, 17, 18, and 21 of the Town's Zoning Ordinance and those portions of Planned Area Districts as determined by the Town's Zoning Administrator.

Credit: A reduction in an assessed development impact fee resulting from Developer contributions to, payments for, construction of, or dedications for Capital Facilities included in an Infrastructure Improvements Plan pursuant to Section 7-2-11 of this Article (or as otherwise permitted by this Article).

Credit Agreement: A written agreement between the Town and the Developer(s) of a Subject Development that allocates Credits to the Subject Development pursuant to Section 7-10-11 of this Article. A Credit Agreement may be included as part of a Development Agreement pursuant to Section 7-2-12 of this Article.

Credit Allocation: A term used to describe when Credits are distributed, but are not yet issued, to a particular development or parcel of land after execution of a Credit Agreement.

Credit Issuance: A term used to describe when the amount of an assessed development impact fee attributable to a particular development or parcel of land is reduced by applying a Credit Allocation.

Developer: An individual, group of individuals, partnership, corporation, limited liability company, association, municipal corporation or other political subdivision of the state, state agency or other person or entity undertaking land development activity, and their respective successors and assigns.

Development Agreement: An agreement prepared in accordance with the requirements of Section 7-2-12 of this Article, A.R.S. §9-500.05, and any applicable requirements of the Town Code.

Direct Benefit: A benefit to a Service Unit resulting from a Capital Facility that: (a) addresses the need for a Necessary Public Service created in whole or in part by the Service Unit; and (b) meets either of the following criteria: (i) the Capital Facility is located in the immediate area of the Service Unit and is needed in the immediate area of the Service Unit to maintain the Level of Service, or (ii) the Capital Facility substitutes for, or eliminates the need for a Capital Facility that would have otherwise have been needed in the immediate area of the Service Unit to maintain the Town's Level of Service.

Dwelling Unit: A house, building or portion of a building, apartment, mobile home or trailer, group of rooms, or single room occupied as separate living quarters for residential purpose or, if vacant, intended for occupancy as separate living quarters for residential purpose.

Equipment: Machinery, tools, materials, and other supplies, not including Vehicles, that are needed by a Capital Facility to provide the Level of Service specified by the Infrastructure Improvement Plan, but excluding replacement of the same after initial development of the Capital Facility.

Excluded Library Facility: Library facilities for which development impact fees may not be charged pursuant to A.R.S. §9-463.05, including that portion of any Library facility that exceeds 10,000 square feet, and Equipment, Vehicles or Appurtenances associated with Library operations.

Excluded Park Facility: Parks and Recreational Facilities for which development impact fees may not be charged pursuant to A.R.S. §9-463.05, including amusement parks, aquariums, Aquatic Centers, auditoriums, arenas arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, Water reclamation or riparian areas, wetlands, or zoo facilities.

Fee Report: A written report developed pursuant to Section 7-2-8 of this Article that identifies the methodology for calculating the amount of each development impact fee, explains the relationship between the development impact fee to be assessed and the Infrastructure Improvements Plan, and which meets other requirements set forth in A.R.S. §9-463.05.

Financing or Debt: Any debt, bond, note, loan, interfund loan, fund transfer, other debt service obligation used to finance the development or expansion of a Capital Facility.

Fire and Police Facilities: A Category of Necessary Public Services that includes fire and police stations, Equipment, Vehicles and all Appurtenances for fire and police stations. "Fire and Police Facilities" does not include Vehicles or Equipment used to provide administrative services, helicopters, airplanes or any facility that is used for training firefighters or officers from more than one station or substation.

General Plan: Refers to the overall land-use plan for the Town establishing areas of the Town for different purposes, zones and activities adopted pursuant to Town Resolution 2009-43 on January 7, 2010, and ratified by the Fountain Hills voters on May 18, 2010, as amended, which includes the Town Center Area Specific Plan adopted pursuant to Town Resolution 2009-40.

Grandfathered Facilities: Capital Facilities provided through Financing or Debt incurred before June 1, 2011, for which a development impact fee has been Pledged towards repayment as described in Section 7-10-4(C) of this Article.

Gross Impact Fee: The total development impact fee to be assessed against a Subject Development, prior to subtraction of any Credits.

Industrial Land Use: A use allowed with the zones designated in Chapters 13 and 14 of the Town's Zoning Ordinance and those portions of Planned Area Development Zoning District as determined by the Town's Zoning Administrator.

Infrastructure Improvement Plan: A document or series of documents that meet the requirements set forth in A.R.S. §9-463.05, including those adopted pursuant to Section 7-10-8 of this Article to cover any Category or combination of Categories of Necessary Public Services.

Land Use Assumptions: Projections of changes in land uses, densities, intensities and population for a Service Area over a period of at least ten years, as specified in Section 7-2-6 of this Article.

Level of Service: A quantitative and/or qualitative measure of a Necessary Public Service that is to be provided by the Town to development in a particular Service Area, defined in terms of the relationship between service capacity and service demand, accessibility, response times, comfort or convenience of use, or other similar measures or combinations of measures, Level of Service may be measured differently for different Categories of Necessary Public Services, as identified in the applicable Infrastructure Improvements Plan.

Library Facilities: A Category of Necessary Public Services in which literary, musical, artistic, or reference materials are kept (materials may be kept in any form of media such as electronic, magnetic, or paper) for use by the public in a facility providing a Direct Benefit to development. Libraries do not include Excluded Library Facilities, although a Library may contain, provide access to, or otherwise support an Excluded Library Facility.

Necessary Public Services: "Necessary Public Services" shall have the meaning prescribed in A.R.S. §9-463.05(T)(7).

Offset: An amount that is subtracted from the overall costs of providing Necessary Public Services to account for those capital components of infrastructure or associated debt that have been or will be paid for by a development through taxes, fees (except for development impact fees), and other revenue sources, as determined by the Town pursuant to Section 7-10-7 of this Article.

Parks and Recreational Facilities: A Category of Necessary Public Services including but not limited to parks, swimming pools and related facilities and Equipment located on real property not larger than 30 acres in areas, as well as park facilities larger than 30 acres where such facilities provide a Direct Benefit. Parks and Recreational Facilities do not include Excluded Park Facilities, although Parks and Recreational Facilities may contain, provide access to, or otherwise support an Excluded Park Facility.

Pledged: Where used with reference to a development impact fee, a development impact fee shall be considered "Pledged" where it was identified by the Town as a source of payment or repayment for Financing or Debt that was identified as the source of financing for a Necessary Public Service

for which a development impact fee was assessed pursuant to the then-applicable provisions of A.R.S. §9-463.05.

Qualified Professional: Any one of the following: (a) a professional engineer, surveyor, financial analyst or planner, or other licensed professional providing services within the scope of that person's education or experience related to Town planning, zoning, or impact development fees and holding a license issued by an agency or political subdivision of the State of Arizona; (b) a financial analyst, planner or other nonlicensed professional who is providing services within the scope of the person's education or experience related to Town planning, zoning, or impact development fees; or (c) any other person operating under the supervision of one or more of the above.

Residential Land Use: A use allowed within the zones designated in Chapters 10 and 11 of the Town's Zoning Ordinance or those portions of uses allowed in Chapters 18 and 23 as determined by the Town's Zoning Administrator.

Service Area: Any specified area within the boundaries of the Town within which: (a) the Town will provide a Category of Necessary Public Services to development at a planned Level of Service; and (b) within which (i) a Substantial Nexus exists between the Capital Facilities to be provided and the development to be served, or (ii) in the case of Library Facilities or a Park Facility larger than 30 acres, a Direct Benefit exists between the Library Facilities or Park Facilities and the development to be served, each as prescribed in the Infrastructure Improvements Plan. Some or all of the Capital Facilities providing service to a Service Area may be physically located outside of that Service Area provided that the required Substantial Nexus or Direct Benefit is demonstrated to exist.

Service Unit: A standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated pursuant to generally accepted engineering or planning standards for a particular category of Necessary Public Services or facility expansion.

Street Facilities: A Category of Necessary Public Services including arterial or collector streets or roads, traffic signals, rights-of-way, and improvements thereon, and other necessary included facilities such as bridges, culverts, irrigation tiling, storm drains, and regional transportation facilities.

Storm Water, Drainage and Flood Control Facilities: A Category of Necessary Public Services including but not limited to storm sewers constructed in sizes needed to provide for storm water management for areas beyond major street projects and storm water detention/retention basins, tanks, pump stations and channels necessary to provide for proper storm water management, including any Appurtenances for those facilities.

Subject Development: A land area linked by a unified plan of development, which must be contiguous unless the land area is part of a Development Agreement executed in accordance with Section 7-2-12 of this Article.

Substantial Nexus: A substantial nexus exists where the demand for Necessary Public Services that will be generated by a Service Unit can be reasonably quantified in terms of the burden it will impose on the available capacity of existing Capital Facilities, the need it will create for new or expanded Capital Facilities, and/or the benefit to the development from those Capital Facilities.

Swimming Pool: A public facility primarily designed and/or utilized for recreational noncompetitive functions generally occurring within water, including, but not limited to, swimming classes, open public swimming sessions, and recreational league swimming/diving events. The facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities.

Town: The Town of Fountain Hills, Arizona.

Useful Life: The period of time during which an asset can reasonably be expected to be used under normal conditions, whether or not the asset will continue to be owned and operated by the Town over the entirety of such period.

Vehicle: Any device, structure, or conveyance utilized for transportation in the course of providing a particular Category of Necessary Public Services at a specified Level of Service, excluding helicopters and other aircraft.

Wastewater Facilities: A Category of Necessary Public Services including, but not limited to, sewers, lift stations, reclamation plants, wastewater treatment plants, and all other facilities for the collection, interception, transportation, treatment and disposal of wastewater, and any Appurtenances for those facilities.

Water Facilities: A Category of Necessary Public Services including, but not limited to, those facilities necessary to provide for water services to development, including the acquisition, supply, transportation, treatment, purification and distribution of water, and any Appurtenances to those facilities.

Section 7-2-3 Applicability

- A. Except as otherwise provided herein, from and after August 1, 2014, this Article shall apply to all new development within any Service Area.
- B. The provisions of this Article shall apply to all of the territory within the corporate limits of the Town and/or within any Town Service Area that extends beyond the corporate limits.
- C. The Town Manager or his/her designee is authorized to make determination regarding the application, administration and enforcement of the provisions of this Article.

Section 7-2-4 Authority for Development Impact Fees

A. Fee Report and Implementation. The Town may assess and collect a development impact fee for costs of Necessary Public Services, including all professional services required for the preparation or revision of an Infrastructure Improvements Plan, Fee Report, development impact fee, and required reports or audits conducted pursuant to this Article. Development impact fees shall be subject to the following requirements:

1. The Town shall develop and adopt a Fee Report that analyzes and defines the development impact fees to be charged in each Service Area for each Capital Facility Category, based on the Infrastructure Improvements Plan, pursuant to Subsection 7-2-7 A. below.

2. Development impact fees shall be assessed against all new commercial, residential, and industrial developments; provided, that the Town may assess different amounts of development impact fees against specific Categories of Development based on the actual burdens and costs that are associated with providing Necessary Public Services to that Category of Development.

3. No development impact fees shall be charged, or Credits issued, for any Capital Facility that does not fall within one of the Categories of Necessary Public Services for which development impact fees may be assessed as identified in Subsection 7-2-7 A. 1. below.

4. Costs for Necessary Public Services made necessary by new development shall be based on the same Level of Service provided to existing development in the same Service Area. Development impact fees may not be used to provide a higher Level of Service to existing development or to meet stricter safety, efficiency, environmental, or other regulatory standards to the extent that these are applied to existing Capital Facilities that are serving existing development.

5. Development impact fees may not be used to pay the Town's administrative, maintenance, or other operating costs.

6. Projected interest charges and financing costs can only be included in development impact fees to the extent they represent principal and/or interest on the portion of any Financing or Debt used to finance the construction or expansion of a Capital Facility identified in the Infrastructure Improvements Plan.

7. All development impact fees charged by the Town must be included in a "Fee Schedule" prepared pursuant to this Article and included in the Fee Report, which Fee Schedule may be adopted by the Town Council by resolution or as part of the Town's annual budget.

8. All development impact fees shall meet the requirements of A.R.S. § 9-463.05.

B. Costs per Service Unit. The Fee Report shall summarize the costs of Capital Facilities necessary to serve new development on a per Service Unit basis as defined and calculated in the Infrastructure Improvements Plan, including all required Offsets, and shall recommend a development impact fee structure for adoption by the Town.

C. Carry-over of Previously-Established Development Impact Fees and Grandfathered Facilities. Notwithstanding the requirements of this Article, certain development impact fees adopted by the Town prior to the effective date of this Article shall continue in effect as follows:

1. Until August 1, 2014, or the date a new development impact fee is effective for the applicable Category of Necessary Public Services in a Service Area pursuant to this Article, whichever occurs first, development impact fees established prior to January 1, 2012, shall continue in full force and effect to the extent that the development impact fee is used to provide a Category of Necessary Public Services that is authorized by Section 7-2-7 below. Development impact fees collected prior to January 1, 2012, shall be expended on Capital Facilities within the same Category of Necessary Public Services for which they were collected.

2. The Town may continue to collect and use any development impact fee established before January 1, 2012, even if the development impact fee would not otherwise be permitted to be collected and spent pursuant to A.R.S. § 9-463.05, as amended by the state legislature in SB 1525, Fiftieth Legislature, First Regular Session, if either of the following apply:

a. Both of the following conditions are met:

i. Prior to June 1, 2011, the development impact fee was Pledged towards the repayment of Financing or Debt incurred by the Town to provide a Capital Facility.

ii. The applicable Capital Facility was included in the Town's Infrastructure Improvements Plan, or other Town planning document prepared pursuant to applicable law, prior to June 1, 2011.

b. Before August 1, 2014, the Town uses the development impact fee to finance a Capital Facility in accordance with A.R.S. § 9-463.05(S).

3. Defined terms in any previously established fee schedule shall be interpreted according to the ordinance in effect at the time of their adoption.

Section 7-2-5 Administration of Development Impact Fees.

A. **Separate Funds.** Development impact fees collected pursuant to this Article shall be placed in separate funds (for each Capital Facility category within each Service Area) within the City's interest-bearing account.

B. **Limitations on Use of Fees.** Development impact fees and any interest thereon collected pursuant to this Article shall be spent to provide Capital Facilities associated with the same Category of Necessary Public Services in the same Service Area for which they were collected, including costs of Financing or Debt used by the Town to finance such Capital Facilities, and other costs authorized by this Article, that are included in the Infrastructure Improvements Plan.

C. **Time Limit.** Development impact fees collected after July 31, 2014, shall be used within ten years of the date upon which they were collected for all Categories of Necessary Public Services except for Water and Wastewater Facilities. For Water Facilities or Wastewater Facilities collected after July 31, 2014, development impact fees must be used within 15 years of the date upon which they were collected.

Section 7-2-6 Land Use Assumptions

The Infrastructure Improvements Plan shall be consistent with the Town's current Land Use Assumptions for each Service Area and each Category of Necessary Public Services as adopted by the Town pursuant to A.R.S. § 9-463.05.

A. **Reviewing the Land Use Assumptions.** Prior to the adoption or amendment of an Infrastructure Improvements Plan, the Town shall review and evaluate the Land Use Assumptions on which the

Infrastructure Improvements Plan is to be based to ensure that the Land Use Assumptions within each Service Area are consistent with the General Plan.

B. Evaluating Necessary Changes. If the Land Use Assumptions upon which an Infrastructure Improvements Plan is based have not been updated within the last five years, the Town shall evaluate the Land Use Assumptions to determine whether changes are necessary. If, after general evaluation, the Town determines that the Land Use Assumptions are still valid, the Town shall issue the report required in Section 7-2-9 below.

C. Required Modifications to Land Use Assumptions. If the Town determines that changes to the Land Use Assumptions are necessary in order to adopt or amend an Infrastructure Improvements Plan, it shall make such changes as necessary to the Land Use Assumptions prior to or in conjunction with the review and approval of the Infrastructure Improvements Plan pursuant to Section 7-10-9 below.

Section 7-2-7 Infrastructure Improvements Plans

A. Infrastructure Improvements Plan Contents. The Infrastructure Improvements Plan shall be developed by Qualified Professionals and may be based upon or incorporated within the Town's Capital Improvements Plan. The Infrastructure Improvements Plan shall:

1. Specify the Categories of Necessary Public Services for which the Town will impose a development impact fee, which may include any or all of the following:
 - a. Water Facilities
 - b. Wastewater Facilities
 - c. Storm water, Drainage, and Flood Control Facilities
 - d. Library Facilities
 - e. Street Facilities
 - f. Fire and Police Facilities
 - g. Park and Recreations Facilities
2. Define and provide a map of one or more Service Areas within which the Town will provide each Category of Necessary Public Services for which development impact fees will be charged. Each Service Area must be defined in a manner that demonstrates a Substantial Nexus between the Capital Facilities to be provided in the Service Area and the Service Units to be served by those Capital Facilities. The Town may cover more than one category of Capital Facilities in the same Service Area provided that there is an independent Substantial Nexus or Direct Benefit, as applicable, between each Category of Necessary Public Services and the Service Units to be served.
3. Identify and describe the Land Use Assumptions upon which the Infrastructure Improvements Plan is based in each Service Area.

4. Analyze and identify the existing Level of Service provided by the Town to existing Service Units for each Category of Necessary Public Services in each Service Area.
5. Identify the Level of Service to be provided by the Town for each Category of Necessary Public Services in each Service Area based on the relevant Land Use Assumptions and any established Town standards or policies related to required Levels of Service.
6. For each Category of Necessary Public Services, analyze and identify the existing capacity of the Capital Facilities in each Service Area, the utilization of those Capital Facilities by existing Service Units, and the available excess capacity of those Capital Facilities to serve new Service Units including any existing or planned commitments or agreements for the usage of such capacity. The Infrastructure Improvements Plan shall additionally identify any changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing Service Units, or to meet new safety, efficiency, environmental, or other regulatory requirements for services provided to existing Service Units.
7. Identify any Grandfathered Facilities and the impact thereof on the need for Necessary Public Services in each affected Service Area.
8. Estimate the total number of existing and future Service Units within each Service Area based on the Town's Land Use Assumptions.
9. Based on the analysis in Subsection 7-2-7 A. 3.- 6. above, provide a summary table or tables describing the Level of Service for each Category of Necessary Public Services by relating the required Capital Facilities to Service Units in each Service Area, and identifying the applicable Service Unit factor associated with each Category of Development.
10. For each Category of Necessary Public Services, analyze and identify the projected utilization of any available excess capacity in existing Capital Facilities, and all new or expanded Capital Facilities that will be required to provide and maintain the planned Level of Service in each Service Area as a result of the new projected Service Units in that Service Area, for a period not to exceed ten years. Nothing in this Subsection shall prohibit the Town from additionally including in its Infrastructure Improvements Plan projected utilization of, or needs for, Capital Facilities for a period longer than ten years; provided, that the costs of such Capital Facilities are excluded from the development fee calculation.
11. For each Category of Necessary Public Services, estimate the total cost of any available excess capacity and/or new or expanded Capital Facilities that will be required to serve new Service Units, including costs of land acquisition, improvements, engineering and architectural services, studies leading to design, design, construction, financing, and administrative costs, as well as projected costs of inflation. Such total costs shall not include costs for ongoing operation and maintenance of Capital Facilities, nor for replacement of Capital Facilities to the extent that such replacement is necessary to serve existing Service Units. If the Infrastructure Improvements Plan includes changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing Service Units, or to meet new regulatory requirements for services provided to existing Service Units, such costs shall be identified and distinguished in the Infrastructure Improvements Plan.

12. Forecast the revenues from taxes, fees, assessments or other sources that will be available to fund the new or expanded Capital Facilities identified in the Infrastructure Improvements Plan, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved Land Use Assumptions. The Infrastructure Improvements Plan shall additionally estimate the time required to finance, construct and implement the new or expanded Capital Facilities.

13. Calculate required Offsets as follows:

- a. From the forecasted revenues in Subsection 7-2-7 A. 12. above, identify those sources of revenue that: (i) are attributable to new development, and (ii) will contribute to paying for the capital costs of Necessary Public Services.
- b. For each source and amount of revenue identified pursuant to Subsection 7-2-7 A. 13. a. above, calculate the relative contribution of each Category of Development to paying for the capital costs of Necessary Public Services in each Service Area.
- c. Based on the relative contributions identified pursuant to Subsection 7-2-7 A. 13. b. above, for each Category of Necessary Public Services, calculate the total Offset to be provided to each Category of Development in each Service Area.
- d. For each Category of Necessary Public Services, convert the total Offset to be provided to each Category of Development in each Service Area into an Offset amount per Service Unit by dividing the total Offset for each Category of Development by the number of Service Units associated with that Category of Development.
- e. Beginning August 1, 2014, for purposes of calculating the required Offset, if the Town imposes a construction, contracting, or similar excise tax rate in excess of the percentage amount of the transaction privilege tax rate that is imposed on the majority of other transaction privilege tax classifications in the Town, the entire excess portion of the construction, contracting, or similar excise tax shall be treated as a contribution to the capital costs of Necessary Public Services provided to new development unless the excess portion is already taken into account for such purpose pursuant to this Section.
- f. In determining the amount of required Offset for land included in a community facilities district established under A.R.S. Title 48, Chapter 4, Article 6, the Town shall take into account any Capital Facilities provided by the district that are included in the Infrastructure Improvements Plan and the capital costs paid by the district for such Capital Facilities, and shall Offset impact fees assessed within the community facilities district proportionally.

B. Multiple Plans. An Infrastructure Improvements Plan adopted pursuant to this Subsection may address one or more of the Town's Categories of Necessary Public Services in any or all of the Town's Service Areas. Each Capital Facility shall be subject to no more than one Infrastructure Improvements Plan at any given time.

C. **Reserved Capacity.** The Town may reserve capacity in an Infrastructure Improvements Plan to serve one or more planned future developments, including capacity reserved through a Development Agreement pursuant to Section 7-2-12 below. All reservations of existing capacity must be disclosed in the Infrastructure Improvements Plan at the time it is adopted.

Section 7-2-8 Adoption and Modification Procedures.

A. **Adopting or Amending the Infrastructure Improvements Plan.** The Infrastructure Improvements Plan shall be adopted or amended subject to the following procedures:

1. **Major Amendments to the Infrastructure Improvements Plan.** Except as provided in Paragraph 2 of this Subsection, the adoption or amendment of an Infrastructure Improvement Plan shall occur at one or more public hearings according to the following schedule, and may occur concurrently with the adoption of an update of the Town's Land Use Assumptions as provided in Section 7-10-6 above:
 - a. Sixty days before the first public hearing regarding a new or updated Infrastructure Improvements Plan, the Town shall provide public notice of the hearing and post the Infrastructure Improvements Plan and the underlying Land Use Assumptions on its website; the Town shall additionally make available to the public the documents used to prepare the Infrastructure Improvements Plan and underlying Land Use Assumptions and any proposed changes to Capital Facilities.
 - b. The Town shall conduct a public hearing on the Infrastructure Improvements Plan and underlying Land Use Assumptions at least 30 days, but no more than 60 days, before approving or disapproving the Infrastructure Improvements Plan.
2. **Minor Amendments to the Infrastructure Improvements Plan.** Notwithstanding the other requirements of this Section, the Town may update the Infrastructure Improvements Plan and/or its underlying Land Use Assumptions without a public hearing if all of the following apply:
 - a. The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not add any new Category of Necessary Public Services to any Service Area.
 - b. The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not increase the Level of Service to be provided in any Service Area.
 - c. Based on an analysis of the Fee Report and the Town's adopted development impact fee schedules, the changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions would not, individually or cumulatively with other amendments undertaken pursuant to this Subsection, have caused a development impact fee in any Service Area to have been increased by more than five per cent above the development impact fee that is provided in the current development impact fee schedule.

d. At least 30 days prior to the date that the any amendment pursuant to this Section is adopted, the Town shall post the proposed amendments on the Town website.

B. Amendments to the Fee Report. Any adoption or amendment of a Fee Report and fee schedule shall occur at one or more public hearings according to the following schedule:

1. The first public hearing on the Fee Report must be held at least 30 days after the adoption or approval of and Infrastructure Improvements Plan as provided in Subsection A of this Section. The Town must give at least 30 days notice prior to the hearing; provided, that this notice may be given on the same day as the approval or disapproval of the Infrastructure Improvements Plan.
2. The Town shall make the Infrastructure Improvements Plan and underlying Land Use Assumptions available to the public on the Town's website 30 days prior to the public hearing described in Paragraph (1) of this Subsection.
3. The Fee Report may be adopted by the Town no sooner than 30 days, and no later than 60 days, after the hearing described in Paragraph (1) of this Subsection.
4. The development fee schedules in the Fee Report adopted pursuant to this Subsection shall become effective as set forth in A.R.S. § 9-463.05.

Section 7-2-9 Timing for the Renewal and Updating of the Infrastructure Improvements Plan and the Land Use Assumptions

A. Renewing the Infrastructure Improvements Plan. Except as provided in Subsection B of this Section, not later than every five years the Town shall update the applicable Infrastructure Improvements Plan and Fee Report related to each Category of Necessary Public Services pursuant to Section 7-2-8 above. Such five-year period shall be calculated from the date of the adoption of the Infrastructure Improvements Plan or the date of the adoption of the Fee Report, whichever occurs later.

B. Determination of No Changes. Notwithstanding Subsection 7-2-9 A. above, if the Town determines that no changes to an Infrastructure Improvements Plan, underlying Land Use Assumptions, or Fee Report are needed, the Town may elect to continue the existing Infrastructure Improvements Plan and Fee Report without amendment by providing notice as follows:

1. Notice of the determination shall be published at least 90 days prior to the end of the five-year period described in Subsection 7-2-9 A. above.
2. The notice shall identify the Infrastructure Improvements Plan and Fee Report that shall continue in force without amendment.
3. The notice shall provide a map and description of the Service Area(s) covered by such Infrastructure Improvements Plan and Fee Report.

4. The notice shall identify an address to which any resident of the Town may submit, within 60 days, a written request that the Town update the Infrastructure Improvements Plan, underlying Land Use Assumptions, and/or Fee Report and the reasons and basis for the request.

C. Response to Comments. The Town shall consider and respond to any timely requests submitted pursuant to Subsection 7-2-9 B. 4. above.

Section 7-2-10 Collection of Development Impact Fees

A. Collection. Development impact fees, together with administrative charges assessed pursuant to Subsection 7-2-10 A. 5. below, shall be calculated and collected prior to issuance of permission to commence development; specifically:

1. Unless otherwise specified pursuant to a Development Agreement adopted pursuant to Section 7-2-12 below, development impact fees shall be paid prior to issuance of a Building Permit according to the current development impact fee schedule for the applicable Service Area(s) as adopted pursuant to this Article, or according to any other development impact fee schedule as authorized in this Article.

2. If the development is located in a Service Area with a Storm water, Drainage, and Flood Control development impact fee, and neither a Building Permit, Water, or sewer service connection is required, the Storm Drainage development impact fee due shall be paid at the time any permit is issued for the development.

3. No Building Permit, Water or sewer connection, or certificate of occupancy shall be issued if a development impact fee is not paid as directed in the previous Subsections.

4. If the Building Permit is for a change in the type of building use, an increase in square footage, a change to land use, or an addition to a residential or nonresidential point of demand to the Water or Wastewater system, the development impact fee shall be assessed on the additional service units resulting from the expansion or change, and following the development impact fee schedule applicable to any new use type.

5. For issued permits that expire or are voided, development impact fees and administrative charges shall be as follows:

a. If the original permittee is seeking to renew an expired or voided permit, and the development impact fees paid for such development have not been refunded, then the permittee shall pay the difference between any development impact fees paid at the time the permit was issued and those in the fee schedule at the time the permit is reissued or renewed.

b. If a new or renewed permit for the same development is being sought by someone other than the original permittee, the new permit Applicant shall pay the full development impact fees specified in the fee schedule in effect at the time that the permits are reissued or renewed. If the original permittee has assigned its rights under the permits to the new

permit Applicant, the new permit Applicant shall pay development impact fees as if it were the original permittee.

B. Exceptions. Development impact fees shall not be owed under either of the following conditions:

1. Development impact fees have been paid for the development and the permit(s) which triggered the collection of the development impact fees have not expired or been voided.
2. The approval(s) that trigger the collection of development impact fees involve modifications to existing residential or nonresidential development that do not: (a) add new Service Units, (b) increase the impact of existing Service Units on existing or future Capital Facilities, or (c) change the land-use type of the existing development to a different Category of Development for which a higher development impact fee would have been due. To the extent that any modification does not meet the requirements of this Paragraph, the development impact fee due shall be the difference between the development impact fee that was or would have been due on the existing development and the development impact fee that is due on the development as modified.

C. Temporary Freezing of Development Impact Fee Schedules. New developments in the Town shall be temporarily exempt from increases in development impact fees that result from the adoption of new or modified development impact fee schedules as follows:

1. On or after the day that the first Building Permit is issued for a single-family residential development, the Town shall, at the permittee's request, provide the permittee with an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that the first Building Permit is issued, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, the Developer shall pay the fees on that schedule, and any Building Permit issued for the same single-family residential development shall not be subject to any new or modified development impact fee schedule.
2. On or after the day that the final approval, as defined in A.R.S. § 9-463.05(T)(4), is issued for a commercial, industrial or multifamily development, the Town shall provide an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that final development approval of a site plan or final subdivision plat is given, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, any Building Permit issued for the same development shall not be subject to any new or modified development impact fee schedule.
3. Any Category of Development not covered under Subsections 7-2-10 C. 1. and 2. above shall pay development impact fees according to the fee schedule that is current at the time of collection as specified in Subsection 7-2-10 A. above.
4. Notwithstanding the other requirements of this Subsection, if changes are made to a development's final site plan or subdivision plat that will increase the number of service units after the issuance of a development impact fee schedule issued pursuant to this Subsection 7-2-10 C., the Town may assess any new or modified development impact fees against the additional service units. If the Town reduces the amount of an applicable development impact

fee during the period that a development impact fee schedule issued pursuant to this Subsection 7-2-10 C. of this Section is in force, the Town shall assess the lower development impact fee.

D. Option to Pursue Special Fee Determination. Where a development is of a type that does not closely fit within a particular Category of Development appearing on an adopted development impact fee schedule, or where a development has unique characteristics such that the actual burdens and costs associated with providing Necessary Public Services to that development will differ substantially from that associated with other developments in a specified Category of Development, the Town may require the Applicant to provide the Town Manager or authorized designee with an alternative development impact fee analysis. Based on a projection of the actual burdens and costs that will be associated with the development, the alternative development impact fee analysis may propose a unique fee for the development based on the application of an appropriate Service Unit factor, or may propose that the development be covered under the development impact fee schedule governing a different and more analogous Category of Development. The Town Manager or authorized designee shall review the alternative impact fee analysis and shall make a determination as to the development impact fee to be charged. Such decision shall be appealable pursuant to Section 7-2-13 below. The Town Manager or authorized designee may require the Applicant to pay an administrative fee to cover the actual costs of reviewing the special fee determination application.

Section 7-2-11 Development Impact Fee Credits and Credit Agreements

A. Eligibility of Capital Facility. All development impact fee Credits must meet the following requirements:

1. One of the following is true:

a. The Capital Facility, or the financial contribution toward a Capital Facility that will be provided by the Developer and for which a Credit will be issued, must be identified in an adopted Infrastructure Improvements Plan and Fee Report as a Capital Facility for which a development impact fee was assessed; or

b. The Applicant must demonstrate to the satisfaction of the Town that, given the class and type of improvement, the subject Capital Facility should have been included in the Infrastructure Improvements Plan in lieu of a different Capital Facility that was included in the Infrastructure Improvements Plan and for which a development impact fee was assessed. If the subject Capital Facility is determined to be eligible for a Credit in this manner, the Town shall amend the Infrastructure Improvements Plan to (i) include the subject replacement facility and (ii) delete the Capital Facility that will be replaced.

2. Credits shall not be available for any infrastructure provided by a Developer if the cost of such infrastructure will be repaid to the Developer by the Town through another agreement or mechanism. To the extent that the Developer will be paid or reimbursed by the Town for any contribution, payment, construction, or dedication from any Town funding source including an agreement to reimburse the Developer with future-collected development impact fees

pursuant to Section 7-2-12 below, any Credits claimed by the Developer shall be: (a) deducted from any amounts to be paid or reimbursed by the Town; or (b) reduced by the amount of such payment or reimbursement.

B. Eligibility of Subject Development. To be eligible for a Credit, the Subject Development must be located within the Service Area of the eligible Capital Facility.

C. Calculation of Credits. Credits will be based on that portion of the costs for an eligible Capital Facility identified in the adopted Infrastructure Improvements Plan for which a development fee was assessed pursuant to the Fee Report. If the Gross Impact Fee for a particular category of Necessary Public Service is adopted at an amount lower than the maximum amount justified by the Fee Report, the amount of any Credit shall be reduced in proportion to the difference between the maximum amount justified by the Fee Report, and the Gross Impact Fee adopted. A Credit shall not exceed the actual costs the Applicant incurred in providing the eligible Capital Facility.

D. Credit Allocation. Before any Credit can be issued to a Subject Development (or portion thereof), the Credit must be allocated to that development as follows:

1. The Developer and the Town must execute a Credit Agreement including all of the following:
 - a. The total amount of the Credits resulting from provision of an eligible Capital Facility.
 - b. The estimated number of Service Units to be served within the Subject Development.
 - c. The method by which the Credit values will be distributed within the Subject Development.
2. It is the responsibility of the Developer to request allocation of development impact fee Credits through an application for a Credit Agreement (which may be part of a Development Agreement entered into pursuant to Section 7-2-12 below).
3. If a Building Permit is issued or a Water/sewer connection is purchased, and a development impact fee is paid prior to execution of a Credit Agreement for the Subject Development, no Credits may be allocated retroactively to that permit or connection. Credits may be allocated to any remaining permits for the Subject Development in accordance with this Article.
4. If the entity that provides an eligible Capital Facility sells or relinquishes a development (or portion thereof) that it owns or controls prior to execution of a Credit Agreement or Development Agreement, Credits resulting from the eligible Capital Facility will only be allocated to the development if the entity legally assigns such rights and responsibilities to its successor(s) in interest for the Subject Development.
5. If multiple entities jointly provide an eligible Capital Facility, all entities must enter into a single Credit Agreement with the Town, and any request for the allocation of Credit within the Subject Development(s) must be made jointly by the entities that provided the eligible Capital Facility.
6. Credits may only be reallocated from or within a Subject Development with the Town's approval of an amendment to an executed Credit Agreement, subject to the following conditions:

- a. The entity that executed the original agreement with the Town, or its legal successor in interest and the entity that currently controls the Subject Development are parties to the request for reallocation.
 - b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.
7. A Credit Agreement may authorize the allocation of Credits to a noncontiguous parcel only if all of the following conditions are met:
- a. The entity that executed the original agreement with the Town or its legal successor in interest, the entity that currently controls the Subject Development, and the entity that controls the noncontiguous parcel are parties to the request for reallocation.
 - b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.
 - c. The noncontiguous parcel is in the same Service Area as that served by the eligible Capital Facility.
 - d. The noncontiguous parcel receives a Necessary Public Service from the eligible Capital Facility.
 - e. The Credit Agreement specifically states the value of the Credits to be allocated to each parcel and/or Service Unit, or establishes a mechanism for future determination of the Credit values.
 - f. The Credit Agreement does not involve the transfer of Credits to or from any property subject to a Development Agreement.

E. Credit Agreement. Credits shall only be issued pursuant to a Credit Agreement executed in accordance with Subsection D of this Section. The Town Manager is authorized by this Article to enter into a Credit Agreement with the controlling entity of a Subject Development, subject to the following:

1. The Developer requesting the Credit Agreement shall provide all information requested by the Town to allow it to determine the value of the Credit to be applied.
2. An application for a Credit Agreement shall be submitted to the Town by the Developer within one year of the date on which ownership or control of the Capital Facility passes to the Town.
3. The Developer shall submit a draft Credit Agreement to the Town Manager or authorized designee(s) for review in the form provided to the Applicant by the Town. The draft Credit Agreement shall include, at a minimum, all of the following information and supporting documentation:
 - a. A legal description and map depicting the location of the Subject Development for which Credit is being applied. The map shall depict the location of the Capital Facilities that have been or will be provided.

- b. An estimate of the total Service Units that will be developed within the Subject Development depicted on the map and described in the legal description.
- c. A list of the Capital Facilities, associated physical attributes, and the related costs as stated in the Infrastructure Improvements Plan.
- d. Documentation showing the date(s) of acceptance by the Town, if the Capital Facilities have already been provided.
- e. The total amount of Credit to be applied within the Subject Development and the calculations leading to the total amount of Credit.
- f. The Credit amount to be applied to each Service Unit within the Subject Development for each Category of Necessary Public Services.

4. The Town's determination of the Credit to be allocated is final.

5. Upon execution of the Credit Agreement by the Town and the Applicant, Credits shall be deemed allocated to the Subject Development.

6. Any amendment to a previously-approved Credit Agreement must be initiated within two years of the Town's final acceptance of the eligible Capital Facility for which the amendment is requested.

7. Any Credit Agreement approved as part of a Development Agreement shall be amended in accordance with the terms of the Development Agreement and Section 7-2-12 below.

F. Credit Issuance. Credits allocated pursuant to Subsection 7-2-11 D. above may be issued and applied toward the Gross Impact Fees due from a development, subject to the following conditions:

1. Credits issued for an eligible Capital Facility may only be applied to the development impact fee due for the applicable Category of Necessary Public Services, and may not be applied to any fee due for another Category of Necessary Public Services.

2. Credits shall only be issued when the eligible Capital Facility from which the Credits were derived has been accepted by the Town or when adequate security for the completion of the eligible Capital Facility has been provided in accordance with all terms of an executed Development Agreement.

3. Where Credits have been issued pursuant to Subsection 7-2-11 F. 2., an impact fee due at the time a Building Permit is issued shall be reduced by the Credit amount stated in or calculated from the executed Credit Agreement. Where Credits have not yet been issued, the Gross Impact Fee shall be paid in full, and a refund of the Credit amount shall be due when the Developer demonstrates compliance with Subsection 7-10-11(F)(2) in a written request to the Town.

4. Credits, once issued, may not be rescinded or reallocated to another permit or parcel, except that Credits may be released for reuse on the same Subject Development if a Building Permit for which the Credits were issued has expired or been voided and is otherwise eligible for a refund under Subsection 7-2-14 A. 2. a. below.

5. Notwithstanding the other provisions of this Section 7-2-11, Credits issued prior to January 1, 2012, may only be used for the Subject Development for which they were issued. Such Credits may be transferred to a new owner of all or part of the Subject Development in proportion to the percentage of ownership in the Subject Development to be held by the new owner.

Section 7-2-12 Development Agreements

Development Agreements containing provisions regarding development impact fees, development impact fee Credits, and/or disbursement of revenues from development impact fee accounts shall comply with the following:

A. Development Agreement Required. A Development Agreement is required to authorize any of the following:

1. To issue Credits prior to the Town's acceptance of an eligible Capital Facility.
2. To allocate Credits to a parcel that is not contiguous with the Subject Development and that does not meet the requirements of Subsection 7-2-11 D. 7. above.
3. To reimburse the Developer of an eligible Capital Facility using funds from development impact fee accounts.
4. To allocate different Credit amounts per Service Unit to different parcels within a Subject Development.
5. For a single-family residential Dwelling Unit, to allow development impact fees to be paid at a later time than the issuance of a Building Permit as provided in this Section.

B. General Requirements. All Development Agreements shall be prepared and executed in accordance with A.R.S. § 9-500.05 and any applicable requirements of the Town Code. Except where specifically modified by this Section, all provisions of Section 7-2-11 above shall apply to any Credit Agreement that is authorized as part of a Development Agreement.

C. Early Credit Issuance. A Development Agreement may authorize Credit Issuance prior to acceptance of an eligible Capital Facility by the Town when the Development Agreement specifically states the form and value of the security (i.e. bond, letter of Credit, etc.) to be provided to the Town prior to Credit Issuance. The Town Attorney shall determine the acceptable form and value of the security to be provided.

D. Noncontiguous Credit Allocation. A Development Agreement may authorize the allocation of Credits to a noncontiguous parcel only if all of the following conditions are met:

1. The noncontiguous parcel is in the same Service Area as that served by the eligible Capital Facility.
2. The noncontiguous parcel receives a Necessary Public Service from the eligible Capital Facility.

3. The Development Agreement specifically states the value of the Credits to be allocated to each parcel and/or Service Unit, or establishes a mechanism for future determination of the Credit values.

E. Uneven Credit Allocation. If the Credits are not to be allocated evenly, the Development Agreement must specify how Credits will be allocated amongst different parcels on a per Service Unit basis. If the Development Agreement is silent on this topic, all Credits will be allocated evenly amongst all parcels on a per Service Unit basis.

F. Use of Reimbursements. Funds reimbursed to Developers from impact fee accounts for construction of an eligible Capital Facility must be utilized in accordance with applicable law for the use of Town funds in construction or acquisition of Capital Facilities, including A.R.S. § 34-201, et seq.

G. Deferral of Fees. A Development Agreement may provide for the deferral of payment of development impact fees for a single-family residential development beyond the issuance of a Building Permit; provided that a development impact fee may not be paid later than 15 days after the issuance of the certificate of occupancy for that Dwelling Unit. The Development Agreement shall provide for the value of any deferred development impact fees to be supported by appropriate security, including a surety bond, letter of credit, or cash bond.

H. Waiver of Fees. If the Town agrees to waive any development impact fees assessed on development in a Development Agreement, the Town shall reimburse the appropriate development impact fee account for the amount that was waived.

I. No Obligation. Nothing in this Section obligates the Town to enter into any Development Agreement or to authorize any type of Credit Agreement permitted by this Section.

Section 7-2-13 Appeals

A development impact fee determination by Town staff may be appealed in accordance with the following procedures:

A. Limited Scope. An appeal shall be limited to disputes regarding the calculation of the development impact fees for a specific development and/or permit and calculation of Service Unit's for the development.

B. Form of Appeal. An appeal shall be initiated in such written form as the Town may prescribe, and submitted to the Town Manager or authorized designee.

C. Timing of Appeal to Manager. The Applicant may appeal the calculation to the Town Manager or authorized designee within 30 calendar days of the calculation.

D. Action by Manager. The Town Manager or authorized designee shall act upon the appeal within 14 calendar days of receipt of the appeal, and the Applicant shall be notified of the Town Manager or authorized designee's decision in writing.

E. Final Decision. The Town Manager or authorized designee's decision regarding the appeal is final.

F. Fees During Pendency. Building permits may be issued during the pendency of an appeal if the Applicant

1. Pays the full impact fee calculated by the Town at the time the appeal is filed or,
2. Provides the Town with financial assurances in the form acceptable to the Town Attorney equal to the full amount of the impact fee. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered, and a refund paid if warranted. If the appeal is denied by the Town Manager or authorized designee, and the Applicant has provided the Town with financial assurances as set forth in clause (2) of this paragraph, the Applicant shall deliver the full amount of the impact fee to the Town within ten days of the Town Manager or designee's final decision on the appeal. If the Applicant fails to deliver the full amount of the impact fees when required by this Subsection, the Town may draw upon such financial assurance instrument(s) as necessary to recover the full amount of the impact fees due from the Applicant.

Section 7-2-14 Refunds of Development Impact Fees

A. Refunds. A refund (or partial refund) will be paid to any current owner of property within the Town who submits a written request to the Town and demonstrates that:

1. The permit(s) that triggered the collection of the development impact fee have expired or been voided prior to the commencement of the development for which the permits were issued and the development impact fees collected have not been expended, encumbered, or Pledged for the repayment of Financing or Debt; or
2. The owner of the subject real property or its predecessor in interest paid a development impact fee for the applicable Capital Facility on or after August 1, 2014, and one of the following conditions exists:
 - a. The Capital Facility designed to serve the subject real property has been constructed, has the capacity to serve the subject real property and any development for which there is reserved capacity, and the service which was to be provided by that Capital Facility has not been provided to the subject real property from that Capital Facility or from any other infrastructure.
 - b. After collecting the fee to construct a Capital Facility the Town fails to complete construction of the Capital Facility within the time period identified in the Infrastructure Improvements Plan, as it may be amended, and the corresponding service is otherwise unavailable to the subject real property from that Capital Facility or any other infrastructure.
 - c. For a Category of Necessary Public Services other than Water or Wastewater Facilities, any part of a development impact fee is not spent within ten years of the Town's receipt of the development impact fee. Any part of a development impact fee for Water or Wastewater Facilities is not spent within 15 years of the Town's receipt of the development impact fee. For the purpose of determining whether fees have been spent, the Town shall use a first-in, first-out process.

d. Any part of a development impact fee for Water or Wastewater Facilities is not spent within 15 years of the Town's receipt of the development impact fee. For the purpose of determining whether fees have been spent, the Town shall use a first-in, first-out process.

e. The development impact fee was calculated and collected for the construction cost to provide all or a portion of a specific Capital Facility serving the subject real property and the actual construction costs for the Capital Facility are less than the construction costs projected in the Infrastructure Improvements Plan by a factor of 10% or more. In such event, the current owner of the subject real property shall, upon request as set forth in this Section A, be entitled to a refund for the difference between the amounts of the development impact fee charged for and attributable to such construction cost and the amount the development impact fee would have been calculated to be if the actual construction cost had been included in the Fee Report. The refund contemplated by this Subsection shall relate only to the costs specific to the construction of the applicable Capital Facility and shall not include any related design, administrative, or other costs not directly incurred for construction of the Capital Facility that are included in the development impact fee as permitted by A.R.S. § 9-463.05.

B. Earned Interest. A refund of a development impact fee shall include any interest actually earned on the refunded portion of the development impact fee by the Town from the date of collection to the date of refund; provided, however that interest is not required to be paid if the refund is requested by the Developer or property owner due to voluntary cessation or abandonment of work. All refunds shall be made to the record owner of the property at the time the refund is paid.

C. Refund to Government. If a development impact fee was paid by a governmental entity, any refund shall be paid to that governmental entity.

D. Time Limitation. Any refund request must be made not later than 180 days following the occurrence of any event described in Subsections 7-2-14 A. 2. a. to e. above.

Section 7-2-15 Oversight of Development Impact Fee Program

A. Annual Report. Within 90 days of the end of each fiscal year, the Town shall file with the Town Clerk an unaudited annual report accounting for the collection and use of the fees for each Service Area and shall post the report on its website in accordance with A.R.S. § 9-463.05(N) and (O), as amended.

B. Biennial Audit. In addition to the Annual Report described in Subsection 7-10-15(A) above, the Town shall provide for a biennial, certified audit of the Town's Land Use Assumptions, Infrastructure Improvements Plan and development impact fees.

1. An audit pursuant to this Subsection shall be conducted by one or more Qualified Professionals who are not employees or officials of the Town and who did not prepare the Infrastructure Improvements Plan.

2. The audit shall review the collection and expenditures of development fees for each project in the plan and provide written comments describing the amount of development impact fees assessed, collected, and spent on capital facilities.
3. The audit shall describe the Level of Service in each Service Area, and evaluate any inequities in implementing the Infrastructure Improvements Plan or imposing the development impact fee.
4. The Town shall post the findings of the audit on the Town's website and shall conduct a public hearing on the audit within 60 days of the release of the audit to the public.
5. For purposes of this Section, a certified audit shall mean any audit authenticated by one or more of the Qualified Professionals conducting the audit pursuant to Subsection 7-2-15 B. 1. above.