

CHAPTER 8 BUILDING

ARTICLE 8-1 BUILDING CODE

- 8-1-1 Adoption of Codes
- 8-1-2 Rules and Definitions
- 8-1-3 Board of Appeals
- 8-1-4 Continuity
- 8-1-5 Rules and Regulations
- 8-1-6 Permits
- 8-1-7 Fees
- 8-1-8 Enforcement
- 8-1-9 Violations
- 8-1-10 Permit Requirements
- 8-1-11 Amendments to Building Code

Section 8-1-1 Adoption of Codes *Ord. 897/7-3-03

A. ADOPTION OF INTERNATIONAL BUILDING CODE, 2006 EDITION *Ord. 1000:

1. That certain document, three (3) copies of which are on file in the office of the Town Clerk of the Town of Wickenburg, being marked and designated as the International Building Code, 2006 Edition, including Appendix Chapters (A, B, C, D, E, F, G H, I, J, K,) (SEE IBC CODE SECTION 101.2.1, 2006 EDITION), as published by the International Code Council, be and is hereby adopted as the Building Code of the Town of Wickenburg for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the Town of Wickenburg are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in SUBPARAGRAPH 2.

2. The following Sections of the International Building Code, 2006 Edition, are hereby revised: *Ord. 1140
 - Section 101.1 Insert: TOWN OF WICKENBURG
 - Section 108.2 Fee Schedule as adopted by Council Resolution.
 - Section 1612.3 Insert: TOWN OF WICKENBURG
 - Section 1612.3. Insert Town of Wickenburg and Flood Insurance Study dated July-19-2001
 - Section 3410.2. Adopted May 5, 2007; Effective June 6, 2008

3. Insurance work will be evaluated from actual damage to the structure only as determined by the insurer or the Fire Department.
4. Whenever a Building Permit is issued and a building inspection is performed, such building must conform to the provisions of the Zoning Ordinance of the Town in addition to the provisions of this Chapter.
5. The Town's grading fees shall be established by Council Resolution. *Ord. 1140

B. ADOPTION OF INTERNATIONAL RESIDENTIAL CODE, 2006 EDITION: ~~§~~Ord. 1000 *Ord. 1140

1. That a certain document, three (3) copies of which are on file in the office of the Town Clerk of the Town of Wickenburg, being marked and designated as the International Residential Code, 2006 Edition, including Appendix Chapters A, B, C, D, E, F, G H, I, J, K, L, M, N, O, P, Q) (See IRC Code Section R102.5, 2006 Edition), as published by the International Code Council, be and is hereby adopted as the Residential Code of the Town of Wickenburg for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provision, penalties, conditions and terms of said Residential Code on file in the office of the Town of Wickenburg Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Subparagraphs 2 through 5.
2. The following Sections are hereby revised:
 - SECTION R101.1: INSERT TOWN OF WICKENBURG
 - TABLE R301.2(1): INSERT EXHIBIT A – SEE PAGE 65
 - SECTION P2603.6.1: INSERT Twelve Inches (12") and Twelve Inches (12")
 - SECTION P3103.1: INSERT Six Inches (6") and Six Inches (6")
3. Insurance work will be evaluated from actual damage to the structure only as determined by the insurer or the Fire Department.
4. Whenever a Building Permit is issued and a building inspection is performed, such building must conform to the provisions of the Zoning Ordinance of the Town in addition to the provisions of this Chapter.
5. Section R102.7 existing structures shall be deleted and replaced with the following: the legal occupancy of any structure existing on the effective date of this Code shall be permitted to continue without change except as specifically permitted in this Code or the International Fire Code or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

C. ADOPTION OF INTERNATIONAL MECHANICAL CODE, 2006 EDITION: ~~§~~Ord. 1000

That certain Code entitled, International Mechanical Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the International Mechanical Code of the Town of Wickenburg and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

D. ADOPTION OF INTERNATIONAL FIRE CODE, 2012 EDITION: (Ord. 1190)

1. That certain Code entitled, "International Fire Code", 2012 Edition, together with all appendices thereto, published by the International Conference of Building Officials and Western Fire Chiefs Association, is hereby adopted as the "International Fire Code 2012 of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.
2. The following sections of the International Fire Code, 2012 edition, are hereby revised:
 - a. Section 101.1. Insert: Town of Wickenburg
 - b. Section 109.4. Delete in its entirety and replace with "violations of this code are subject to penalties pursuant to Section 1-8 of the Town Code."
 - c. Section 111.4. Delete in its entirety and replace with "any person who shall continue to work after having been served with a stop work order, except such work as that person is directed to perform to remove a violations or unsafe condition, shall be liable for a fine as set by the Town Council of the Town of Wickenburg."
 - d. Section 5704.2.9.6.1. Insert: Town of Wickenburg
 - e. Section 5706.2.4.4. Insert: Town of Wickenburg
 - f. Section 5806.2. Insert: Town of Wickenburg
 - g. Section 6104.2. Insert: Town of Wickenburg

E. ADOPTION OF INTERNATIONAL PLUMBING CODE, 2006 EDITION: ✖Ord. 1000

1. That certain Code entitled, "International Plumbing Code", 2006 Edition, together with all appendices thereto, as amended in paragraph 2 below, is hereby adopted as the "International Plumbing Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.
2. Evaporative Cooling Systems: All shall be equipped with a re-circulating water pump and shall be installed as part of all new or replacement evaporative cooler units.

F. ADOPTION OF INTERNATIONAL EXISTING BUILDING CODE, 2006 EDITION:

That certain code entitled, "International Existing Building Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the "International Existing Building Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

G. ADOPTION OF NATIONAL ELECTRIC CODE, 2005 EDITION:

That certain Code entitled, "National Electric Code", 2005 Edition, together with all appendices thereto, published by the National Fire Protection Association, NFPA No. 701990, is hereby adopted as the "Electrical Code of the Town of Wickenburg" and is made a part of this Chapter the same as though said Code was specifically set forth in full herein; and at least three (3) copies of said Code shall be filed in the office of the Town Clerk and kept available for public use and inspection.

H. ADOPTION OF INTERNATIONAL FUEL GAS CODE, 2006 EDITION: ✕Ord. 1000

That certain code entitled, "International Fuel Gas Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the "International Fuel Gas Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

I. ADOPTION OF INTERNATIONAL ENERGY CONSERVATION CODE, 2006 EDITION: (Ord. 1017)

That certain code entitled, "International Energy Conservation Code", 2006 Edition, is hereby adopted as the "International Energy Conservation Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

J. ADOPTION OF UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997 EDITION

(Ord. 1035)

That certain Code entitled, "Uniform Code for the Abatement of Dangerous Buildings", 1997 Edition, is hereby adopted as the "Uniform Code for the Abatement of Dangerous Buildings of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

K. ADOPTION OF THE MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION, 2018 REVISION TO THE 2015 EDITION: (Ord.983) (Ord. 1190)

That certain Code entitled, "The Maricopa Association of Governments (MAG) Uniform Standard Specifications and Details for Public Works Construction," 2018 Revision to the 2015 Edition, together with all appendices thereto, is hereby adopted as the standard specifications and details for public works construction in the Town of Wickenburg and made a part of this Chapter the same as though said Code as specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the Office of the Town Clerk and shall be kept available for public use and inspection.

L. ADOPTION OF THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE: (Ord. 1190)

- I. That certain code entitled, "International Property Maintenance Code," 2012 edition, with all appendices thereto, is hereby adopted as the Property Maintenance Code of the Town of Wickenburg. At least three (3) copies of said code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

2. The following sections of the International Property Maintenance Code, 2012 edition, are hereby revised:
- a. Section 101.1. Insert: Town of Wickenburg
 - b. Section 103.1. Delete in its entirety.
 - c. Section 103.5. Delete in its entirety and replace with “The fees for activities and services performed under this code shall be adopted by Resolution of the Town Council of the Town of Wickenburg.”
 - d. Section 106. Delete in its entirety and replace with “Violations of this code are subject to penalties pursuant to Section 1-8 of the Town Code.”
 - e. Section 107. Delete in its entirety and replace with:

107.1 Notice to owner and tenant. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, and prior to taking any action to abate the violation, notice shall be given in the manner prescribed in Section 107.2.1 and 107.3 to the owner and tenant, as applicable, for the violation as specified in this code. If abatement of the existing violation(s) is necessary, a notice of abatement shall be given in the manner prescribed in Sections 107.2.2 and 107.3.

107.2 Notification Forms.

107.2.1 Notice of violation. Such notice of violation prescribed in Section 107.1 shall be in accordance with all of the following:

 1. Be in writing.
 2. Include a description of the real estate sufficient for identification of the property.
 3. Include a statement of the violation(s) and why the notice is being issued.
 4. Include a correction order giving at least thirty (30) days to make the repairs and improvements required to bring the premises, residential and non-residential structures, accessory structures or dwelling unit into compliance with this code.
 5. Inform responsible party that, if the correction order is not complied with, the Town may choose to remove, abate, enjoin or cause the removal of the violations existing on the property and lien the property with the cost of such abatement in accordance with state law. Such abatement notice shall be given in the manner prescribed in Section 107.2.2.

107.2.2 Notice of abatement. A notice of abatement shall be in accordance with all of the following:

 1. Be in writing.
 2. Include a description of the real estate sufficient for identification of the property.
 3. Include a statement of the violation(s) and why the notice is being issued.
 4. Include an abatement order giving the owner at least thirty (30) days to make the repairs and improvements required to bring the premises, residential and non-residential structures, accessory structures or dwelling unit into compliance with the provisions of this code, and such notice shall include cost of such abatement in accordance with state law.
 5. Inform the responsible party if the violation is not abated within the time set forth in the notice, the Town will abate the violation and lien the cost of such abatement against the property.
 6. Re-inspection date and time.
 7. Inform the owner, owner’s authorized agent or owner’s statutory agent and the tenant of the right to appeal the notice to abate or assessment in the manner prescribed by Section 111.1, unless the removal or abatement is ordered by a court.

107.3 Method of service. Notice shall be deemed to be properly served if a copy thereof is either:

 1. Given by personal service to the:
 - (a) owner, owner’s authorized agent or owner’s statutory agent; and
 - (b) to the tenant (as applicable).

2. Sent by certified mail, return receipt requested addressed to the:
 - (a) owner's last known address, the owner's authorized agent or the owner's statutory agent; and
 - (b) to the address to which the tax bill for the property was last mailed.

If the notice is returned showing that the certified mail, return receipt requested letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice and the Town may record the notice in the County Recorder's office as provided by state law.

107.4 Unauthorized Tampering. Signs, tags, or seals posted or affixed by the code official shall not be mutated, destroyed or tampered with without authorization of the code official.

- f. Section 111. Delete in its entirety and replace with the following:

111.1 Appeal. Any person directly affected by a decision, notice or order issued by the code official, including a notice of assessment or assessment, may appeal such decision, notice or order pursuant to this section. The Town Council shall appoint a Board of Appeals to preside over any such appeal. The Board of Appeals shall consist of three officers who are qualified by experience and training to evaluate matters pertaining to property maintenance and who are not employee of the Town. The Town Council has sole discretion in making appointment to the Board of Appeals and judging the qualifications for service. The right to appeal under this subsection shall not be available to citations, which shall be adjudicated by the Town of Wickenburg Municipal Court pursuant to Town Code and State Law requirements, including any right of appeal to such court decisions as may be applicable by law.

111.2 Process Upon Appeal: Waiver. A written application for appeal shall be filed with the Town Clerk within 30 days after the day the decision, notice or order was served. Failure to timely file an appeal shall constitute a waiver of the right to a hearing of the appeal and such person shall be stopped to deny the validity of any decision, notice, or order which could have been timely appealed.

111.3 Grounds for Appeal. The application for appeal shall set forth the person's reasons for believing that he or she is not in violation of the code; that the provisions of this code do not fully apply; that the rules legally adopted have been incorrectly applied; or other legal error in the decision, notice, or order.

111.4. Procedure on Appeal. Any party may be represented by an attorney and any person whose interests are affected shall be given an opportunity to be heard at the hearing. The Board of Appeals shall conduct the hearing, rule on any procedural matters and objections, and issue a final decision after the hearing. The final decision shall contain findings and conclusions and be provided to the parties within 30 days of the hearing.

- g. Section 112.4. Delete in its entirety and replace with "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 for a fine as set by the Town Council of the Town of Wickenburg.
- h. Section 302.4. Insert: 18"
- i. Section 303.2. Delete in its entirety.
- j. Section 304.14. Delete in its entirety.
- k. Section 404. Delete in its entirety and replace with "Refer to Adopted Building Code for Minimal Sizes."
- l. Section 602. Amend by adding "and cooling" after "heating."
- m. Section 602.3. Insert: (October 1) (March 31)

- n. Section 602.3. Add new subparagraph 602.3.1 to read as follows: “Cooling. In addition to the requirements of Section 602.3, Facilities shall be capable of maintaining a temperature of not greater than 80 degrees.”
 - o. Section 602.4. Insert: (October 1) (March 31)
 - p. Amend Chapter 8, referenced standards by (A) deleting the reference to the International Zoning Code and (B) adding a new standard as follows: All references to the International Zoning Code shall be deleted and replaced with “The Town of Wickenburg Zoning Code.”
3. The following section is hereby added to the International Property Maintenance Code, 2012 edition:
- a. Section 405. Nuisance Lights
 - 1. Purpose, Intent, and Applicability
 - (A.) The purpose of this section is to minimize light pollution and light trespass with the intent of maintaining the integrity of and enjoyable use of property and the night environment by the citizens of the Town of Wickenburg; and
 - (B.) Benefiting astronomical research and observations; and
 - (C.) Conserving energy while increasing nighttime visibility, utility, and security.
 - (D.) This section shall apply to all new construction in all single-family residential zoning districts and shall include any new outdoor lights installed or constructed after the effective date of this ordinance, or existing lights determined to constitute a nuisance.
 - 2. Standards for Outdoor Residential Lighting
 - (A.) Outdoor lighting shall refer to all sources of light either temporary or permanent that intentionally or incidentally illuminate any area beyond the exterior walls of enclosed structures.
 - (B.) All outdoor light fixtures shall be situated or shielded to prevent the light source from being directly visible from a public street, adjacent residence, or adjacent residential zoning district. Shielded shall mean that fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.
 - (C.) All lighting fixtures shall be so constructed and arranged to reflect light away from any residence or residential zoning district while minimizing to the extent possible, any illumination beyond the boundaries of the site on which the lighting is located.
 - (D.) All light fixtures shall have a full cutoff to mitigate light pollution. Full cutoff shall mean that the light fixture is shielded or constructed so that the light rays emitted by the fixture are projected below a horizontal plane passing through the lowest point on the fixture from which light is emitted. Drop or sag lens type fixtures are prohibited.
 - (E.) The use of mercury vapor lights is prohibited and shall be deemed illegal. Existing mercury vapor lights are considered a nuisance and shall be removed or replaced as of January 1, 2004.
 - (F.) Exemptions. This section shall not apply to:
 - (1) portable or temporary lighting used by law enforcement, emergency services personnel or public utilities to protect life or property, or permanent lighting that is deemed necessary in the interest of public safety by the Chief of Police, the Fire Chief, or the Fire Marshal.
 - (2) Field sports lighting in public or semi-public facilities such as municipal parks, public school athletic fields, and rodeo or equestrian arenas.
 - (3) Temporary special event lighting such as Christmas lights, lighting in conjunction with approved carnivals or circuses.
 - (4) Airport lighting.

Section 8-1-2 Rules and Definitions

- A. The term "International Building Codes" as used hereinafter shall mean the Codes referred to in Section 8-1-1.
- B. The terms used in this Article shall be defined as provided in the Codes adopted in Section 8-1-1, except as herein otherwise provided.
- C. Whenever the terms "governing body" or "city" or "Town" or "municipality" are used in the International Building Codes, they shall mean the Town of Wickenburg.
- D. Whenever the terms "Mayor", "appointing authority", "Commission" or "City or Town Council" are used, they shall mean the Common Council of the Town of Wickenburg.
- E. Whenever the terms "administrative authority", "Building Official" or "administrator" are used in the International Building Codes, it shall mean the Building Inspector of the Town of Wickenburg.
- F. Whenever the terms "other Codes" or "other Code" are used in the International Building Codes, they shall mean the other Code or other Codes adopted by the County of Maricopa and the State of Arizona.
- G. Reference to Chapters, Articles, Sections and Subsections or paragraphs and to tables thereof are to the International Building Codes.
- H. Administrative Provisions. Part I of the International Building Code in Section 8-1-1 shall be used as the administrative rules for administering this Article, except as otherwise hereinafter provided.

Section 8-1-3 Board of Adjustment ~~Ord.~~ 1000/5-08

- A. In order to determine the suitability of alternative materials and methods of construction and to provide for reasonable interpretations of the provisions of this Chapter, there shall be a Board of Adjustment, which shall be that same body established in Section 14-18-1, et seq. of the Code of the Town of Wickenburg. The building official shall be an ex-officio member of the Board, for matters pertaining to the International Building Code and its interpretation. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing. The Board of Adjustment shall sit at regular or special meetings and may consider at one and the same meeting matters pursuant to this Chapter, as well as matters pursuant to Chapter 14.
- B. All appeals under this Chapter must be submitted at least seven (7) days prior to any regular or special meeting. Upon filing an appeal from a decision of the Building Department, the appellant shall pay a filing fee of twenty-five dollars (\$25.00) to the Town Clerk. No part of any such fee shall be returnable after an application is filed and such fee paid.

Section 8-1-4 Continuity


The International Code Council and other publishers identified in Section 8-1-1 issues each edition of the International Building Codes periodically which is maintained by annual supplements. In order that this Article maintains its continuity, it shall be the responsibility of the Town Administration to review and present all such necessary supplements to the Common Council for appropriate action.

Section 8-1-5 Rules and Regulations


Town administration shall propose to the Common Council for adoption rules and regulations in the interest of public safety, health and general welfare to implement the provisions of this Article and to secure the intent thereof; but no such rules shall have the effect of waiving technical provisions specifically provided in the International Building Codes or of violating accepted engineering practices involving public safety.

Section 8-1-6 Permits

- A. Applications shall be made and permits issued at the discretion of the Town administration for the following items:
 - I. Construction, erection, demolition, alteration or repair of any building or structure.

2. Installation or replacement of any plumbing fixtures which require changing or alteration of the rough plumbing servicing such fixture as well as the alteration or installation of rough plumbing for the service of future fixtures.
 3. The installation, replacement or alteration of any electrical fixtures appliance, outlet or service, which shall require a change, alteration, or replacement of any rough wiring.
 4. The installation or alteration of any heating, cooling, refrigeration or ventilating equipment which shall involve the installation or alteration of duct work or the alteration of fuel lines or electric wiring to the equipment.
 5. Masonry or other retaining walls which are retaining earth more than eighteen (18) inches in depth, detached accessory buildings more than one hundred forty-four (144) square feet in area, tool sheds, storage buildings and other accessory buildings with more than one hundred forty-four (144) square feet projection roof area. II /  (Ord. 1075/8-10)
- B. In addition to the requirements of Section 105 IBC and Section R105 IRC of the International Building Codes for the application of a permit, the applicant shall also file a signed statement that the applicant is currently licensed to perform the work applied for in the permit under the provisions of A.R.S §32-1101, et. seq., with his license number. If the applicant is exempt from the provisions of that law, the statement shall contain the basis of the asserted exemption and the name and license number of any general, mechanical, electrical or plumbing contractor who will be employed on the work. ✕Ord. 1000/5-08

Section 8-1-7 Fees

- A. For purposes of determining Building Permit Fees for Codes adopted by Section 8-1-1, valuation shall be determined in accordance with International Code Council Building Valuation data table and construction cost table released in august of each year. *Ord. 1140
- B. The following shall require the issuance of a permit but shall be exempt from the requirement of collection of fees:
1. Curbs, retaining walls, planter walls, fences and free-standing masonry walls up to thirty-six (36) inches in height and not retaining earth more than eighteen (18) inches in depth.
 2. Patio covers accessory to Group H, I and J occupancies up to one hundred (100) square feet provided other requirements are complied with.
 3. One story tool and storage sheds and other accessory buildings not used for human occupancy in the rear yard with not more than, one hundred forty-four (144) square feet of projected roof area provided all other requirements are complied with.  (Ord. 1075/8-10)
- C. The following shall not require permit or fee:
1. Residential television and radio antennas supported on roofs.
 2. Awnings projecting up to six (6) feet and attached to the exterior walls of buildings in Group I and J occupancy.
 3. Repairs or maintenance which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over one thousand dollars (\$1,000.00) in valuation in any twelve (12) month period. Repairs exempt from permit requirements shall not include any addition, change or modification in construction, exit facilities or permanent fixtures or equipment.
 4. Paved driveways or sidewalks provided drainage is controlled to a public right-of-way.
 5. Painting, decorating and installation of floor covering.


Section 8-1-8 Enforcement

It shall be the duty of the Town Planner or Town Manager to certify that all requisite Zoning clearances and approvals have been issued and are in order prior to the issuance of any permit for any activity for which a permit is required. Notwithstanding the foregoing, the Town Planner or Town Manager may authorize the issuance of an emergency permit if the work covered by the permit is intended to mitigate conditions, which may pose a hazard or threat to the health or safety of persons or property. (Ord. 838: 6/99)

Section 8-1-9 Violations

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town, cause the same to be done, contrary to or in violation of any of the provisions of this Article.

Section 8-1-10 Permit Requirements

- A. Except for Plan Review fees, all fees due pursuant to this Article shall be paid prior to Building Permit issuance. Plan Review fees shall be paid at the time of filing an application. If additional Plan Review fees become due after the filing of an application, such fees shall be paid prior to the issuance of a Building Permit. All fees shall be in conformance with current fee schedules set forth in this Article.  Ord. 1040/4-09
- B. Nothing in this Chapter shall be construed to require changes in the plans, construction or designated use of the building for which a lawful permit has been heretofore issued or otherwise lawfully authorized.

Section 8-1-11 Amendments to Building Code  Ord. 1000/5-08,  Ord. 1046/7-09

- A. The International Building Code of the Town of Wickenburg, 2006 Edition, Section 2109.8, Adobe Construction, shall be amended to read as follows:
1. General: The use of un-reinforced masonry of unburned clay units shall be limited to buildings of Group R Division 3 and Group M occupancies of no more than one (1) story in height, unless a registered architect or engineer submits design and structural calculations and approved by the Building Official.
 2. Walls: The height of every laterally unsupported wall of unburned clay units shall be not more than ten (10) times the thickness of such walls. Exterior walls, which are laterally supported with those supports located no more than twenty-four feet (24') apart, are allowed a minimum thickness of sixteen inches (16"). Interior walls are allowed a minimum thickness of twelve inches (12"). Designed walls may be a minimum thickness of ten inches (10") provided the h/t ratio of ten (10) is maintained.
 3. Compressive Strength: The unit(s) shall have an average compressive strength of three hundred (300) pounds per square inch when tested in accordance with ASTM C67. One (1) sample out of five (5) may have a compressive strength of not less than two hundred fifty (250) pounds per square inch.
 4. Modulus of Rupture: The unit shall average fifty (50) pounds per square inch in modulus of rupture when tested according to the following procedure:
 - a. A cured unit shall be laid over (cylindrical) supports two inches (2") in diameter, located two inches (1") from each ends and extending across the full width of the unit.
 - b. A cylinder two inches (2") in diameter shall be laid midway between and parallel to the supports.
 - c. Load shall be applied to the cylinder at the rate of five hundred (500) pounds per minute until rupture occurs.
 - d. The modulus of rupture is equal to $\frac{3WL}{2Bd^2}$

W = Load of rupture
L = Distance between supports
B = Width of brick
d = Thickness of brick



5. Soil: The soil used shall contain not less than twenty-five percent (25%) and not more than forty-five percent (45%) of material passing a No. 200-mesh sieve. The soil shall contain sufficient clay to bind the particles together and shall not contain more than 0.2 percent of water-soluble salts.
6. Classes of Adobe:
 - a. Treated Adobes. The term "treated" is defined to mean adobes made of soil to which certain admixtures are added in the manufacturing process in order to limit the adobe's water absorption in order for it to comply with paragraph 10 below. Exterior walls constructed of treated adobe require no additional protection. Stucco is not required.
 - b. Untreated Adobes. Untreated adobes are adobes that do not meet the water absorption specifications of paragraph 10 below. This shall hold even if some water absorption protective agent has been added. The determination as to whether an adobe is treated or untreated is to test for compliance with paragraph 10 below. Exterior walls of untreated adobe are allowed but must comply with paragraph 15 requiring Portland cement plaster applied to the outside. Use of untreated adobes is prohibited within four inches (4") above finished floor grade, unless an approved vapor barrier is used between wall and stem. Treated adobes may be used for the first four inches (4") above finished floor grade, without a vapor barrier.
 - c. Other types of Adobe. This chapter applies to construction with all types of adobe including rammed earth and poured earth adobe. The types of adobe shall meet the specifications in this Chapter or similar specifications that are approved by the Building Official.
7. Mortar: Where treated adobe is required, mortar shall be treated or may be Type M or S. Where adobes are allowed to be untreated, any adobe mortar may be used and/or Type M, S or N. Mortar "bedding" joints shall be full SLUSH type, with partially open "head" joints allowable if surface is to be plastered. All joints shall be bonded "overlapped) a minimum of four inches (4").
8. Sampling: Each of the tests prescribed in this Section shall be applied to five (5) sample units selected at random from each 5~000 bricks to be used.
9. Moisture Content. The moisture content of the unit shall be not more than four percent (4~) by weight.
10. Absorption: A dried four-inch (4") cube cut from a sample unit shall absorb not more than two and one-half percent (2-1/2~) moisture by weight when placed upon a constantly water saturated porous surface for seven (7) days.
11. Shrinkage Cracks: No units shall contain more than three (3) shrinkage cracks, and no shrinkage crack shall exceed two inches (2") in length or one-eighth inch (1/8") in width.
12. Use: No adobe shall be laid in the wall for at least three (3) weeks after making, dependent on weather conditions.
13. Foundations: Adobes shall not be used for foundation or basement walls. All adobe walls, except as noted under Group M Buildings, shall have a continuous concrete footing at least eight inches (8") thick and not less than two inches (2") wider on each side than the foundation stem walls above. All foundation walls, which support adobe units, shall extend to an elevation not less than eight inches (8") above the finished grades. Foundation walls shall be at least as thick as the exterior wall as specified in Section 24G5 (1). Where stem wall insulation is used, a variance is allowed for the stem wall width to be two inches (2") smaller than the width of the adobe wall it supports.
14. Bond Beam: All exterior adobe walls shall have a continuous concrete bond beam with a minimum width of ten inches (10") and a minimum depth of ten inches (10"). All concrete bond beams shall be reinforced with a minimum of two (2) No. 4 reinforcing rods.



- 15. Plastering: All untreated adobe shall have all exterior walls plastered on the outside with Portland cement plaster, minimum thickness of three fourth inches (3/4") in accordance with Chapter 47. Protective coatings other than plaster are allowed, provided such coating is equivalent to Portland cement in protecting the untreated adobes against deterioration and/or loss of strength due to water. Metal wire mesh minimum 20 gauge by one inch (1") opening shall be securely attached to the exterior adobe wall surface by nails or staples with minimum penetration of one and one-half inches (1-1/2"). Such mesh fasteners shall have a maximum spacing of sixteen inches (16") from each other. All exposed wood surfaces in adobe walls shall be treated with an approved wood preservative before the application of wire mesh.
 - 16. Piers: A minimum twenty-eight-inch (28") wall Section shall be required between openings and openings shall not be placed within twenty-eight inches (28") of exterior corners.
 - 17. Partitions of Wood: Shall be constructed as specified in Chapter 25, wood partitions shall be nailed to nailing blocks laid up in the adobe wall or bolted through the adobe wall the height of the partition, with one-half inch (1/2") diameter bolts at twenty-four inches (24") on center with large washers or plates, or other approved methods.
 - 18. Wood Lintels: Wood lintels designed to support all imposed loads are permitted up to a maximum span of six feet (6') and shall have a minimum twelve inch (12") bearing.
 - 19. Alternate methods to those provided in this Section (Section 2109.8) may be approved pursuant to Section 104.11 of the International Building Code. ✕Ord. 1000/5-08
 - 20. Stresses: All masonry of unburned clay units shall be so constructed that the unit stresses do not exceed those set forth in Section 2109.8.3. Bolt values shall not exceed those set forth in 2109.8.3.1. ✕Ord. 1000/5-08
- B. New residential construction in areas not feasibly served by the Town of Wickenburg water system and/or greater than one thousand feet (1000') from the nearest Town approved fire hydrant, shall comply with the 2006 International Residential Code Appendix "P" as adopted by the Town of Wickenburg, fire sprinkler requirements prior to approval of the residential dwelling building permit.
- C. The Town of Wickenburg, through Ordinance No. 1049 amended 2006 International Residential Code Appendix "P" to read as follows: AP101 Fire Sprinklers: An approved automatic fire sprinkler system may be installed in new one (1) and two (2) family dwellings and townhouses, in accordance with Section 903.3.1. of the International Building Code. 
- D. When an application for approval of a masonry fence wall is filed with the Town, the applicant shall be provided a copy of the *Arizona Masonry Guild Engineering Standards* for masonry fence walls. Plan Review Fees shall be waived for applicants who use these standards. The *Arizona Masonry Guild Standards* may be modified from time to time. Updated Standards shall be kept on file with the Office of the Building Official. 

EXHIBIT A -- TABLE R301.2(1) ✕Ord. 1000/5-08

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

| Ground Snow Load | Wind Speed (mph) | Seismic Design Category | SUBJECT TO DAMAGE FROM | | | Winter Design Temp. | Ice Barrier Underlayment Required | Flood Hazards | Air Freezing Index | Mean Annual Temp. |
|------------------|------------------|-------------------------|------------------------|------------------|-------------------|---------------------|-----------------------------------|-----------------------|--------------------|-------------------|
| | | | Weathering | Frost Line Depth | Termite | | | | | |
| 0 | 90 | B | Negligible | 12" | Moderate to Heavy | 32°F | 0 | Jurisdiction Specific | 0 | 66.7°F |

ARTICLE 8-2 ADOPTION OF STATE STANDARDS

- A. The standards for curb ramps specified in A.R.S § 9-499.02 shall be observed in the construction of new curbs and replacement curbs in the same manner and to the same extent as provided in the above referenced State Statute.
- B. The provisions of Title 34, Chapter 4, Article 1, Arizona Revised Statutes, are hereby incorporated in the Town Building Code in the same manner and to the same extent as required by the above referenced Statute.

ARTICLE 8-3 STREET IMPROVEMENTS

- 8-3-1 Definitions
- 8-3-2 Street Improvements Required
- ~~8-3-3~~ 8-3-3 Construction in Public Rights-Of-Way; Location & Relocation of Facilities in Public Rights-Of-Way
- 8-3-5 Assessment Procedure
- 8-3-6 Manner of Collecting Unpaid Assessments
- 8-3-7 Exemptions
- 8-3-8 Fees
- 8-3-9 Dedication and Acceptance of Private Roads 

Section 8-3-1 Definitions

In this Article, unless the context otherwise requires:

- A. "Cost" means the actual cost of:
 - 1. Construction of the public street improvements as determined by the construction contract price.
 - 2. Inspection and permit fees.
 - 3. Engineering fees required for the preparation of plans and specifications.
 - 4. Other incidental fees required to complete the improvements.
- B. "Development" means the construction of residential, commercial or industrial buildings or structures or major additions or alterations to existing residential, commercial or industrial buildings or structures, not including subdivisions, and includes new buildings or structures on property having existing buildings or structures situated on such property. When such property is zoned for agricultural use or single-family residential use at the time of assessment, development shall also require a change of use or purpose. Nothing herein shall be construed to affect, eliminate or modify the requirements of the Town's Subdivision Code, which shall in all cases remain in effect.
- C. "Major addition or alteration" means any addition or alteration to an existing building hereafter made where the value of such addition or alteration, as determined by the Building Official for the purpose of establishing the applicable permit fee due under the Town Code, is twenty-five percent (25%) or more of the value of the building before such addition or alteration is started.
- D. "Owner" means the individual, corporation, partnership, trust or other legal entity that owns property adjacent to the street right-of-way.
- E. "Right-of-Way" means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved or dedicated to the general public for street, highway, alley, public utility, pedestrian walkway, bikeway or drainage purposes.
- F. "Street improvements" include, but are not limited to, asphaltic concrete surfacing, aggregate base, Portland cement concrete, curb and gutters, sidewalks, valley gutters, storm drainage facilities and irrigation tilling.
- G. "Street" means the full width of the right-of-way of any road, street, highway, alley, land or pedestrian walkway whether or not said road, street, highway, alley, land or pedestrian walkway has been improved or accepted for maintenance by the Town.

Section 8-3-2 Street Improvements Required  Ord. 1028/2-09 (A)

- A. At the time of development of property within the Town, the proprietor or owner of the property shall dedicate rights-of-way and easements and construct street improvements within and adjacent to such property in accordance with Town requirements. Dedications and street improvements shall not be considered complete until the Town Council, upon recommendation of the Town Engineer and Public Works Director accepts such dedications and improvements into the Town's Street System. If accepted, the Town Clerk shall then record such dedications and improvements in the Maricopa County Recorder's Office.
- B. If the Council determines that street improvements within or adjacent to the property are necessary before the development of the property, the Council may order street improvements to be constructed by the Town as provided in Section 8-3-4 of this Article.
- C. If, in the opinion of the Town Engineer, the installation of street improvements would not be feasible from an engineering standpoint at the time of development, the installation of such improvements may be temporarily deferred provided a cash bond, irrevocable letter of credit or similar instrument as approved by the Town Attorney is deposited with the Town for the cost of such improvements. Estimated costs of the street improvement shall be established by the owner/developer's engineer and reviewed and approved by the Town Engineer.
- D. Notwithstanding the provisions of Subsections A and B of this Section, an owner may apply to the Council for partial or total waiver of the requirements set forth in Subsections A and B of this Section. Upon such application, the Town Council may waive a part or all of the street improvements and/or the posting of bonds or furnishing of security, if the Council reasonably determines that all or a portion of the improvements normally required under this Section will be constructed by the Town or some other owner, developer or subdivider within a reasonable time in the future.
- E. This Section shall not apply to subdivisions, which in all cases shall be governed by the Town's Subdivision Code.

Section 8-3-3 Construction in Public Rights-Of-Way; Location & Relocation of Facilities in Public Rights-Of-Way  Ord. 1004-6/08 (Ordinance 1189)

A. Permit Required; Contents of Application

It shall be unlawful for any permittee person or entity to construct, reconstruct, repair, alter, or grade on, upon, below, above or within the public rights-of-way without first obtaining a permit from the Public Works Department as provided in this Section and complying with the Zoning and Subdivision Codes of the Town. An applicant for a permit shall file a complete application with the Town that includes:

1. Name, address and license number of the party doing the work.
2. Location of the work area.
3. Plans attached to the application showing details of the proposed construction. Such plans shall be prepared and sealed by an engineer registered and licensed in the State, unless the permittee demonstrates to the satisfaction of the Town that the work does not warrant imposing this requirement.
4. A traffic control plan in accordance with Subsection b.
5. Estimated cost of alteration.
6. For wireless facilities, all information required in the Standards Terms and Conditions for Wireless Communications Facilities in the Right-of-Way. (Ord. 1189)
7. For wired facilities, all information required in subsection G of this section. (Ord. 1220)
8. Such other information as the town finds reasonably necessary to determine compliance with Town Codes.

B. Traffic control

1. Traffic Control Plans. A permittee shall submit a traffic control plan application to the Town at least two (2) business days prior to the proposed start date of construction activities. The traffic control plan application must include a traffic control plan. The traffic control plan must be designed and submitted by a certified member of the American Traffic Safety Services Association (ATSSA).

2. Traffic control manual. The Town designates the Phoenix Barricade manual (1998 edition) as a public record and hereby adopts the Phoenix Barricade manual (1998 edition) three copies of which are on file in the Town Clerk's office as the Town's Official Traffic Control manual for Construction Work Zones with the following changes:
 - (a) Arrow boards are required for all lane closures on arterial streets.
 - (b) Lane closures on arterial streets are not permitted between 5:30 a.m. and 8:30 a.m. or between 3:30 p.m. and 7:00 p.m. unless previously approved by the Traffic Engineer or Public Works Director.
 - (c) A permittee shall hire a uniformed off-duty police officer to be present when construction activities take place within three hundred (300) feet of a signalized intersection or if required by the engineer. Permittee's must arrange for a police officer five (5) calendar days in advance of planned construction activities.

C. Fees

Plan checking fees and inspection fees as established by the Council by resolution shall be paid prior to issuance of a permit. Such fees shall be reasonably related to costs directly incurred in providing services relating to the administration of the permits.

D. Location and Relocation of Facilities in Public Rights-Of-Way

1. General. If the work to be performed in a public right-of-way involves the installation, construction, erection, replacement or relocation of any facilities, a permit must be obtained from the Building Department/Public Works Department. Such permit shall be issued on such conditions as are reasonable and necessary to ensure compliance with the terms and conditions of Town Codes. The application shall include all information required in Subsection B. Each permittee is responsible for ensuring that its facilities are installed, constructed and maintained in strict accordance with Town Codes; that all required licenses, franchises and other permits are applied for and obtained before any work commences; and that the terms and conditions thereof are strictly followed. In addition, if the facility is a wireless facility, it shall comply with the requirements of Subsection E, including the Requirement to obtain a master license prior to issuance of a permit. (Ord.1189) Where a facility is used by more than one permittee, each permittee is fully responsible for ensuring that all requirements are satisfied.
2. Joint use of trenches. In order to minimize degradation of streets, traffic impacts and other interference with the use of public rights-of-way, work shall be coordinated so that to the greatest extent possible, consistent with economic feasibility, joint trenching is utilized. The Public Works Department shall adopt rules to facilitate joint trenching in the public rights-or-way.
3. Traffic safety. The facilities to be constructed, installed, operated, and maintained by the permittee shall be so located or relocated as to interfere as little as possible with traffic or other authorized uses over, under, or through the public rights-of-way. Those phases of construction relating to traffic control, backfilling, compaction, and paving, as well as the location or relocation of said facilities shall be subject to regulation by the Town Council.
4. Records. The permittee shall keep accurate records of the location of all facilities in the public rights-of-way and furnish them to the town upon request or at such periodic intervals as the Town may require. In order for the Town to regulate users in the public rights-of-way, upon completion of new or relocation construction of underground facilities in the public rights-of-way, the permittee shall provide the Town with the location of the underground and above ground facilities in a format compatible with the current Town mapping format.

5. Restoration. Whenever the permittee shall cause any opening or alteration to be made for any purpose in any public rights-of-way, the work shall be completed within a reasonable time, and the permittee shall, without expense to the Town and upon completion of such work, restore the property disturbed in a manner consistent with the Town's adopted standards, or as required by its permit, license, or franchise which may incorporate special standards when required for Town purposes. Landscaping, whether in the public rights-of-way or on private property, which is damaged by a permittee shall be restored to its condition as it existed prior to the work. A permittee shall exercise special care when working near established trees or shrubs. If established trees or shrubs die within six (6) months of completion of work by a permittee, it is presumed that the permittee caused such damage if the work performed was in the location of the roots of such tree or shrub.
6. Town's facilities. The installation, use and maintenance of the permittee's facilities within the public rights-of-way authorized herein shall be in such a manner as not to interfere with placement, construction, use, and maintenance of public rights-or-way, street lighting, water pipes, drains, sewers, traffic signal systems, or other utility systems that have been, or may be, installed, maintained, used or authorized by the town. Upon the Town's request, the permittee's facilities will be relocated at permittee's expense (unless state law expressly requires otherwise). Upon the Town's request, by a time specified by the Town, if the permittee fails to move its facilities, the Town may do so and will bill the permittee the costs of relocation and the permittee shall pay those costs within thirty (30) days after its receipt of the invoice. Further, the permittee shall reimburse the Town any additional cost the Town incurs due to the delay in location or relocation of the permittee's facilities, including all design and construction costs.
7. Interference. The permittee shall not install, maintain, or use any of its facilities in such a manner as to damage or interfere with facilities of another located within the public rights-of-way.
8. Location and maintenance of above-ground facilities. The Town shall approve the location of aboveground facilities, such as boxes, cabinets and similar equipment or appurtenances. The permit shall set forth the location of such aboveground facilities. If the Public Works Director determines that a proposed location would impair traffic visibility or visibility of existing signage or would substantially harm existing landscaping, or that similar conditions exist which would justify a denial of a permit in that location, the permit shall be denied. Aboveground facilities shall be maintained in good condition. If the Town finds any of permittee's above-ground facilities are not maintained in good condition, permittee shall correct such condition within three (3) business days of receiving notice from the Town.
9. Undergrounding of new utilities. No new poles and wires shall be erected in the Town above the surface of the ground unless a permit is first secured from the Public Works Department, except that the following construction may be installed without such a permit:
 - a) 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;
 - b) 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 part of an underground electric distribution, telephone, data, 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;
 - c) Transmission lines, together with related switch yards, substations and related equipment.

10. Plans. All facilities shall be installed per plans prepared by a registered professional engineer. The Town shall approve all plans before the work commences. A permittee may install facilities on existing utility poles or in existing conduit where permission is granted by owner of the utility pole or conduit, and such permission is verified by the Town except where those same poles are scheduled to be replaced with buried facilities. The Town may require the permittee to prove that it has such permission from the owner to use the owner's facilities. No new poles, or longer poles, will be permitted in the public rights-of-way for any new facilities. If permittee installs facilities on existing poles as provided herein, the permittee shall bury its facilities if such poles are removed and not replaced in kind for any reason. If the permittee makes use of existing conduit of another person, the permittee shall be subject to the provisions of this Section in the use of such conduit in the public rights-of way. As used herein, a pole installed to replace a damaged pole shall not be considered to be a new pole.
11. Insurance, bonding. Each permittee must obtain and maintain such insurance, bonding, and security fund requirements as specified by the Town, or if no specific requirements are specified, as are required by the Town for similar facilities. No work shall commence unless these requirements have been satisfied, and the Town may require the permittee to remove or stop work on facilities or require a permittee to cease using the facility, when any insurance, bonding and security fund requirements are not satisfied.
12. Repairs. A permit shall be obtained from the Public Works Department prior to a person removing, relocating, or reconstructing, if necessary, any portion of a person's facilities. Notwithstanding the foregoing, the Town understands and acknowledges there may instances when a person is required to make repairs, in compliance with federal or state laws, that are of an emergency nature. The permittee will notify the Town prior to such repairs, if practicable, and will obtain the necessary permits in a reasonable time after notification.
13. Conflict with Town projects.
 - a) Identification of conflict. If, during the design process of public improvements, the Town discovers a potential conflict with proposed construction, the permittee shall either:
 - 1) Locate and, if necessary, expose its facilities in conflict; or
 - 2) Use the one-call notification center ("blue stake") to locate or expose its facilities. The permittee shall reimburse the Town for the cost resulting from the use of such location service. The Town shall make reasonable efforts to design and construct projects pursuant to this Section so as to avoid relocation expense to the permittee. Permittee shall furnish the location information in a timely manner, but in no case longer than ten (10) calendar days from the Town's request.
 - b) Priority Right. The Town reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, re-grade, widen, realign, or maintain any public rights-of-way, Aerial, surface, or subsurface improvements, including, but not limited to, traffic control conduits, storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the public rights-of-way.
 - c) Relocation. When the Town invokes its prior superior right to the public rights-of-way, the permittee shall move its facilities located in the public rights-of-way, at its own cost, to such a location as the Town directs.
 - d) Procedures. If, during the course of the project, the Town determines permittee's facilities are in conflict, the following shall apply.
 - 1) Prior to the Town notice to proceed to contractor: the permittee shall, within a reasonable time, but in no event exceeding one (1) month, remove or relocate the conflicting facility. This time prior shall begin running upon receipt by the permittee of written notice from the Town. However, if both the Town and permittee agree, the time frame may be extended based on the requirements of the project.

- 2) Subsequent to Town notice to proceed to contractor: The Town and the permittee will immediately begin the coordination necessary to remove or relocate the facility. Actual construction of such removal or relocation is to begin no later than seventy-two (72) hours, if practicable, after written notification from the Town to proceed.
14. Damage to Town rights-of-way and facilities.
- a) If, in the installation, use, or maintenance of its facilities, the permittee damages or disturbs the surface or subsurface of any public rights-of-way or adjoining public property, or the public improvement located thereon, therein, or thereunder, the permittee shall promptly, at its own expense, and in a manner acceptable to the Town, restore the surface or subsurface of the public rights-of-way or public property, or repair or replace the public improvement thereon, therein, or thereunder, in as good a condition as before such damage or disturbance. If such restoration, repair or replacement of the surface, subsurface, or any structure located thereon, therein, or thereunder is not completed within a reasonable time, or such repair or replacement does not meet Town standards, the Town shall have the right to perform the necessary restoration, repair, or replacement, either through its own forces, or through a hired contractor, and the occupant agrees to reimburse the town for its expense in so doing within thirty (30) days after receipt of the invoice therefore.
 - b) The permittee shall reimburse the town for all reasonable costs arising from the reduction in the service life of any public road or pavement damage, if required by any other Town ordinances or resolutions, resulting from pavement cuts of permittee. Permittee agrees to pay such costs within thirty (30) days from the date of issuance of an invoice from Town. *Ord. 1140/6-14
15. Relocation of facilities.
- a) General. The Town shall not bear any cost of relocation of existing facilities, irrespective of the function served, where the Town facilities or other facilities occupying the public rights-of-way under authority of a Town permit, license, or franchise which must be relocated, are already located in the public rights-of-way and the conflict between the permittee's potential facilities and existing facilities can only be resolved expeditiously as determined by the town by the movement of the existing Town or other approved facilities.
 - b) Delay. If permittee's failure to keep or provide accurate records to Town or if permittee's relocation effort so delays construction of a public project causing the Town to be liable for damages, the permittee shall reimburse the Town for those damages attributable to the delay created by the permittee.
 - c) Town Costs. Except as otherwise provided in a license, franchise, or permit, or by other provision of law, the entire cost of relocation shall be borne by the Town if the permittee is required by the Town to relocate facilities which are located in private easements obtained by the permittee prior to the dedication of the public rights-of-way from which facilities must be relocated. These prior rights of the permittee would also be unaffected by any subsequent relocation. "prior rights" as used in this Subsection means private easement or other legally sufficient rights obtained by the permittee prior to the dedication of the public rights-of-way from which the facilities are requested by the Town to be relocated.
16. Rights reserved to Town.
- Without limiting the rights that the Town might otherwise have, the Town hereby expressly reserves the following rights, powers and authorities:
- a) To exercise its governmental powers now or hereafter to the full extent that such powers may be vested in or granted to the Town.
 - b) To determine any question of fact relating to the meaning, terms, obligations, or other aspects of this section and the instruments issued under this section.
 - c) To grant multiple, non-exclusive licenses, franchises, or permits within the Town to other persons.

17. Town police power; continuing jurisdiction.

- a) Police power. The permittee shall at all times be subject to all lawful exercise of the Police power by the Town, including any and all ordinances, rules or regulations which the Town has adopted or may adopt, and all laws, rules, regulations, order, and policies of the State and the United States Government. Any conflict between the provisions of this Section and other provisions of the Town Code, the stricter requirement shall apply.
- b) Continuing jurisdiction. The Town shall have continuing jurisdiction and supervision over any facilities located within or on public rights-of-way. However, it is recognized that the daily administrative, supervisory, and enforcement responsibilities of the provisions of this Article and any license or franchise shall be delegated and entrusted to the Town Manager or Director of Public Works to interpret, administer, and enforce the provisions of this Section, and to promulgate standards regarding the construction, reconstruction, relocation, maintenance, dismantling, abandonment, or use of the facilities within the public rights-of-way.

18. Violation

From and after the effective date of this ordinance, it shall be unlawful for any person to occupy the public rights-of-way unless the person is in compliance with the provisions of this Section and any other applicable ordinance, license, franchise or requirement.

E. **Wireless Facilities in the Right-of-Way** (Ordinance 1189)

1. This paragraph applies to the use of the public rights-of-way by wireless providers as that term is defined in A.R.S. Section 9-591. It applies to telecommunications corporations as that term is defined in A.R.S. Section 9-581, only if and to the extent a telecommunications corporation has or intends to locate wireless facilities in the public rights-of-way and is a wireless provider.
2. Those certain documents, three copies of which are on file with the Town Clerk entitled, "Wireless Facilities in the Right-Of-Way Standard Terms and Conditions" and "Design Standards, Concepts and Requirements Wireless Facilities in the Right-of-Way" are hereby declared to be public records and are adopted by reference to regulate work on, below and above a right-of-way that involves wireless communications facilities. In addition to other requirements in this Section 8-3-3, an applicant requesting to locate a wireless communications facility in the right-of-way shall comply with the requirements set forth in the Wireless Facilities in the Right-of-Way Standard Terms and Conditions and Design Standards, Concepts and Requirements Wireless Facilities in the Right-of-Way.

F. **Microcell Equipment in the Right-of-Way** (Ordinance 1189)

1. *Applicability.* Notwithstanding any provisions of this section to the contrary, the provisions of this paragraph F shall apply to the installation, operation and maintenance of microcell equipment mounted on strands in the Town by telecommunications corporations and cable operators. A person that has all applicable authorizations required to provide commercial mobile radio service using microcell equipment may use microcell equipment to provide commercial mobile radio service.
2. *Applications.* Applications for the installation, operation and maintenance of microcell equipment on strands within the Town shall comply with the requirements of this section.
3. *Fees.* The Council shall establish fees for microcell equipment mounted on strands by resolution.
4. *Limitations.* At each site where microcell equipment is installed, such installation is limited to:
 - a. Not more than two strand-mounted antennas and radio pairs that are owned by a person described in paragraph 1 of this section.
 - b. Related devices owned by the applicant that are mounted on a strand between the microcell poles on which the strands are mounted, including power supplies, housings, cables and similar supporting furnishings and improvements.

5. *Definitions.* As used in this subsection:

- a. *Microcell Equipment* means devices that are connected to aerial facilities that are used solely for transmitting, processing and receiving voice and data wireless telecommunications services. Microcell equipment does not include any ground-based equipment.
- b. *Microcell Pole* means a pole or similar structure and attached appurtenances, including strands, that is designed for telecommunications, cable, data or electric functions.

G. **Telecommunications Service – Wired Facilities in the Public Highway** (Ord. 1220)

I. *Definitions.* In this Paragraph G, unless the context otherwise requires:

“Commercial mobile radio service” means two-way voice commercial mobile radio service as defined by the Federal Communications Commission in 47 United States Code § 157.

“Environmental laws” means the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq., the Arizona Hazardous Waste Management Act, A.R.S. §§ 49-901, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq. or the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq. or any other applicable federal, state, county or local law pertaining to hazardous substances, waste or toxic substances and their reporting requirements.

“Facilities” means the plant, equipment, and property used in the provision of telecommunications services and not owned by the town, including but not limited to wires, pipe, conduits, pedestals, antennas, and other appurtenances placed under the public highways and not owned by the town and used in the provision of telecommunication services. The term does not include wireless facilities as that term is defined in A.R.S. § 9-591 or video services as defined in A.R.S. § 9-591.

“Hazardous substances” means those substances defined as toxic or hazardous substances, pollutants, or wastes by environmental laws and the following substances: gasoline, kerosene, or other petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials.

“In-kind payments” means facilities and/or services provided or to be provided by licensee in lieu of all or a portion of the fees imposed by town for the use of the public highway.

“Interstate telecommunications services” means telecommunications services provided between users in Arizona and users outside of Arizona.

“License” means this non-exclusive authorization granted by the town to construct, operate, maintain, reconstruct, repair and remove the facilities of licensee.

“Public emergency” means any condition which, in the opinion of town officials, poses an immediate threat to the lives or property of the citizens of the town or others caused by any natural or man-made disaster, including but not limited to, storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc.

“Public highway” or “highway” means all roads, streets and alleys and all other dedicated public rights-of-way and public utility easements of the town.

“System route map” means the map showing the locations of the facilities in the use areas pursuant to a license, as may be amended by town engineer approval of permits for new use areas.

“Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received, as defined in A.R.S. § 9-581. The term does not include commercial mobile radio services, pay phone services, interstate services, wireless services or video services.

“Telecommunications corporation” means any public service corporation to the extent that it provides telecommunications services in this state.

“Telecommunications services” means the offering of telecommunications for a fee directly to the public, or to such users as to be effectively available directly to the public, regardless of the facilities used. The telecommunications services of a licensee shall be described in the license approved by the council.

“Use areas” means the initial locations of the facilities of a licensee as set forth in a license and approved new use areas pursuant to Paragraph 4.b(1) of this subsection G.

“User contracts” means contracts a licensee enters into with third parties to use the facilities pursuant to a license.

“Video services” has the same meaning as in A.R.S. § 9-1401.

“Wireless services” has the same meaning as in A.R.S. § 9-591.

2. License required.

- a. No telecommunications corporation shall install, maintain, construct or operate telecommunications facilities in any public highway in the town unless a license to use the highways to provide telecommunications services has first been granted by the town council under this chapter to such telecommunications corporation; provided, however, that this chapter does not apply to the installation, maintenance, construction and operation of wireless facilities as that term is defined in A.R.S. § 9-591 or a video service network as that term is defined in A.R.S. § 9-1401.
- b. Notwithstanding Paragraph 2.a above, any telecommunications corporation that was providing telecommunications service within the State of Arizona as of November 1, 1997, pursuant to a grant made to it or its lawful predecessors prior to the effective date of the Arizona constitution, may continue to provide telecommunications services pursuant to that state grant, until and unless the state grant is lawfully repealed, revoked or amended, and need not obtain any further grant from the town to provide telecommunications services; provided, however, that such entity must in all other respects comply with the requirements applicable to the telecommunications corporations as provided in Title 9, Chapter 5, Article 7 of the Arizona Revised Statutes.
- c. Nothing in this ordinance shall be deemed to affect the terms or conditions of any license or permit issued by the town prior to the effective date of the amendments of this ordinance or to release any party from its obligations thereunder. Those licenses or permits shall remain fully enforceable in accordance with their terms. The town manager, with the consent of the council, may enter into agreements with licensees or permittees to modify or terminate an existing license or agreement.

- d. A license to any telecommunications corporation to use the highways to install, maintain, construct or operate telecommunications facilities shall not authorize the use of the highways to provide any other service, including video services and wireless services; nor shall the issuance of the same invalidate any license or permit that authorizes the use of the highways for such other services; nor shall the fact that a telecommunications corporation holds a license or permit to make any other use of the highway or to provide any other service, authorize installation, maintenance, construction or operation of telecommunications facilities in any highway in the town, without obtaining a license hereunder.
 - e. Any license granted shall not be exclusive.
3. License application.
 - a. Any telecommunications corporation desiring a license under this chapter to construct, install, operate and maintain telecommunications facilities in public highways of the town shall file an application with the town clerk requesting a license in the form prescribed by the town and shall pay an application fee in an amount established by resolution of the town council. Such amount shall be payable in cash, certified or cashier's check, wire transfer, or in any other manner acceptable to the town manager, made payable to the town. No application shall be considered without receipt of said fee. The applicant shall be responsible for reimbursing the town's full reasonable costs in excess of the application fee in processing the application. The application fee is in addition to any permit fees established for persons doing work or locating facilities in the public highway.
 - b. Each application shall be in a form provided by the town, and, at a minimum, (1) show where the initial facilities the applicant will use will be located, or contain such other information as the town may deem necessary in order to ensure that the applicant will comply with requirements for use of the highways; (2) identify the applicant, its name, address and telephone number; (3) contain a description of the services to be provided; and (4) set out a description of any agreement with any other entity that would permit such entity to use the facilities.
 - c. Each applicant shall provide a letter of credit in favor of the town in the amount of \$100,000 to be in effect during construction of the initial system build out. The letter of credit shall then be reduced to \$50,000 for the remaining term of the license.
 - d. Upon receiving an application for a license that satisfies the conditions of Paragraph 3.b above, the town shall promptly proffer a telecommunications license to the applicant for its review, and may inquire into matters relevant to the issuance of the license. If the applicant agrees to the terms and conditions of the license, the request shall be submitted to the council with a recommendation for approval.
 4. Conditions of license.
 - a. As a condition of issuing or renewing a license to use the public highways to provide telecommunications services, the town may require:
 - (1) Proof that the applicant has received a certificate of public convenience and necessity from the Arizona Corporation Commission;

- (2) The applicant to agree to comply with highway use requirements that the town may establish from time to time;
 - (3) The applicant to agree to provide and maintain accurate maps showing the location of all its facilities and the facilities it will use in the highways within the town, and to comply with such other mapping requirements as the town may establish from time to time; applicant shall provide the town with electronic mapping information in a format compatible with the current town electronic mapping;
 - (4) The applicant to obtain the insurance, and provide proof of insurance as required by the town; to post the performance bonds and security fund required by the town; and to agree to fully indemnify the town, its officers, agents, boards and commissions, in a form satisfactory to the town; and agree that it shall have no recourse whatsoever against the town or its officials, boards, commissions, agents or employees for any loss, costs, expense or damages arising out of any provision or requirement of the town because of the enforcement of the license or because of defects in this chapter or the license issued;
 - (5) The applicant to agree to comply with and be bound by the administrative and enforcement provisions as may be prescribed from time to time by the town.
- b. Every license shall be subject to the following administrative and enforcement provisions:
- (1) The permission granted by a license is limited to the use areas, which shall be identified in the system route map attached to an approved license. New use areas may be approved upon application for a permit pursuant to Section 8-3-3, Paragraphs A through D for such new use areas. The applications shall include specific information on the location of the new use areas and the proposed facilities. Upon approval by the town engineer, the new use areas shall be depicted on the system route map and shall be subject to all terms and conditions of the license and lawful conditions, if any, imposed by the town.
 - (2) A licensee's facilities shall meet the applicable standard specifications and requirements of the town. Licensee's use of the public highway shall be according to plans approved by the town engineer, provided that such approval shall not be unreasonably withheld or delayed. Facilities shall not be located aboveground unless there is no practical alternative and any such facilities shall be earth-toned colors or screened to the extent reasonably practical. Licensee's installation of facilities shall be coordinated with the town to accommodate opportunities for common installation. Prior to the start of any construction work, licensee shall notify all affected residents or businesses at least forty-eight (48) hours in advance of any street, alley, sidewalk, and driveway closures in order to allow them to make suitable arrangements to have all vehicles moved to a satisfactory location outside the closed area. If an emergency requires activity without such written notice, the licensee shall use reasonable efforts to provide timely actual notice to the owners or other persons having lawful control of the adjoining property. Licensee shall identify a representative, such as a project manager, who shall be the contact person for the town during any construction periods.

- (3) A licensee shall maintain "as-built" drawings of its facilities located within the public highway and furnish a copy electronically in a mapping format compatible with the current town electronic mapping format and in hard copy form. Upon completion of new or relocation construction of underground facilities in the public highway, licensee shall create and maintain precise, up-to-date maps of any of its facilities and any aboveground equipment located in the public highway and precise and verifiable horizontal and vertical location information and will make this information available to the town upon the installation of any new facilities. A licensee will also provide surface-location marking of licensee's facilities that are located underground within any public highway within thirty (30) business days of installation. If complete updates are not provided in a compatible format, licensee shall pay the actual, reasonable costs the town incurs to update the town's electronic mapping format due to the location or relocation of the licensee's facilities. In the event licensee fails to supply records in the town specified format and there is a cost to the town in converting licensee-provided files, licensee will be responsible for the conversion costs and will pay such costs within thirty (30) days of the date of the bill from the town invoicing the amount due.
- (4) The authority granted by a license does not authorize licensee's use of the facilities for the construction, installation or operation of wireless facilities, a cable television system, a cable system, or a video services system or authorize the licensee to operate as a cable operator or video services provider as those terms are defined in the Communications Act of 1934, state law, or the town code. The authority granted by a license does not authorize the use of the public highway for an open video system as defined in the Communications Act of 1996 or as defined or authorized by the Federal Communications Commission. The authority granted by a license is not in lieu of any other license or franchise the town may require to occupy the public highways to provide service other than as authorized under a license.
- (5) A licensee shall comply with rules and regulations of the Federal Communications Commission and Arizona Corporation Commission that apply to the services that licensee provides over the facilities in the public highway.
- (6) In order for the town to determine a licensee's compliance with the terms of a license, within 30 days of a request for disclosure by the town, the licensee shall provide the documentation requested by town. For purposes of confirming that the licensee is providing solely services authorized under a license, upon reasonable request and notice by the town, the licensee shall make available for joint inspection and testing as requested by the town, the current services being provided by licensee through the facilities authorized by a license. If the licensee determines that in order to respond to the town's request for documentation and inspection that it must reasonably provide proprietary information, the licensee shall so designate such claim to proprietary treatment on documents provided to the town.
- (7) If the facilities of a licensee or any other licensee equipment, improvements or activities within the use areas present any immediate hazard or impediment to the public, to the town, to other improvements or activities within or without the use areas, or to the town's ability to safely and conveniently operate the public highway or perform the town's utility, public safety and other public health, safety and welfare functions, then licensee shall immediately remedy the hazard, comply with the town's requests to secure the use areas, and otherwise cooperate with the town at no expense to town to remove any such hazard or impediment. Licensee's work crews shall report to the use areas within four (4) hours of any request by the town under this paragraph.

- (8) If a licensee abandons use of its facilities, or upon cancellation, revocation or termination of a license, licensee shall notify the town and may, subject to the town's approval, permanently abandon the facilities in place. In lieu of permanent abandonment, the town may require a licensee to the reasonable satisfaction of the town and, without cost or expense to the town, promptly to remove its facilities and to restore the public highway. If a licensee fails or refused to remove the facilities required by town to be removed, the town may do so and licensee shall pay the cost of such removal and the restoration of the highway. Upon permanent abandonment, if the town does not require removal, a licensee shall submit to the town a proposal and instruments for transferring ownership to the city. Any facilities which are not removed within one hundred twenty (120) days of the town's written request automatically shall become the property of the town. The Arizona Blue Stake Center must be notified to record abandoned facilities.
- (9) Any and all rights granted to a licensee shall be subject to the prior and continuing right of the town to use the public highway, including the use areas. Any and all rights granted to a licensee shall also be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims to title which may affect the public highway. A license shall be construed to grant, convey, create or vest a perpetual real property interest in land to a licensee.
- (10) A licensee accepts the risk that there may now or in the future exist in the use areas other work and improvements that the town may approve from time to time. The town shall have full authority to regulate use of the use areas and to resolve competing demands and preferences regarding use of the use areas and to require a licensee to cooperate and participate in implementing such resolutions.
- (11) Neither the town nor any agent, contractor or employee of the town shall be liable to a licensee, its customers or third parties with user contracts for any service disruption or for any other harm caused them or the facilities due to competing uses of the public highway.
- (12) A licensee may enter into user contracts with unrelated third parties in the ordinary course of the licensee's business for use of portions of the facilities of the licensee. All such third parties shall obtain a license from the town pursuant to A.R. S. § 9-583, Paragraph D. No person shall transmit data over the facilities of the licensee or otherwise use the facilities except under a user contract with a licensee. The licensee shall provide to town (i) the name of the third party, (ii) the name, title, address, telephone number, and email address of a person with authority to speak for the third party, (iii) the route of the proposed service, and (iv) any other information relevant to the use of the public highway by the third party reasonably requested by the town.
- (13) All signage is prohibited except that a licensee shall install and thereafter maintain all signs and markings that the facilities and the licensee's activities may make necessary for safe use of the use areas by the public, the town, licensee and other persons who may be at the use areas at any time for any reason.
- (14) Licenses shall be personal to the licensee. Except as provided in the license, no transfer of a license or licensee, or change of control over the same (including, but not limited to, transfer by forced or voluntary sale, merger, consolidation, receivership, or any other means) shall occur unless prior application is made to the town and the town's prior written consent is obtained, which consent will not be unreasonably withheld or delayed. In making a determination as to

whether to approve a transfer, the town may consider the same information and qualifications required of an original application for a license; whether the licensee is in compliance with its license and this chapter and, if not, the proposed transferee's commitment to cure such noncompliance; whether the transfer would result in an evasion of other applicable provisions of law, or impair lawful contracts; and the effect of the transfer on the town's interest. No application for a transfer of a license shall be granted unless the proposed transferee agrees in writing that it will abide by and accept all terms of the chapter and the license, and that it will assume all obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous licensee under this chapter and the license for all purposes, including renewal. Approval by the town of a transfer of a license does not constitute a waiver or release of any of the rights of the town under this chapter or the license, whether arising before or after the date of the transfer.

- (15) Every licensee shall be subject to the town's exercise of such police, regulatory and other powers as it now has or may later obtain, and a license may not waive the application of the same.
- (16) Every license shall be subject to revocation if the licensee fails to comply with the material terms and conditions of the license, or applicable law; provided, however, that a license shall not be revoked unless the licensee is given written notice of the defect in performance, and fails to cure the performance within sixty (60) days of the notice, except where the town finds that the defect in performance is due to intentional misconduct, is a violation of criminal law, or is part of a pattern of violations where the licensee has already had notice and opportunity to cure. A hearing shall be held before a license is revoked if the licensee requests a hearing.
- (17) Activities of a licensee and contractors of a licensee in the public highway shall be subject to environmental laws, now or hereafter imposed. A licensee and/or its contractors shall not produce, dispose, transport, treat, use or store any hazardous substances upon or about the public highway. These prohibitions shall not apply to: (i) ordinary gasoline, diesel fuel or other fuels or lubricants necessary for ordinary use in motor vehicles and ordinary construction machinery permitted upon the highway, and any such materials shall be properly and lawfully contained in ordinary quantities in ordinary tanks and receptacles that are permanently installed in such vehicles and machinery, or small portable tanks that are being used for fueling permitted construction machinery, and (ii) electric backup batteries and other materials that may contain hazardous substances that are commonly used in the provision of telecommunications services. Disposal of hazardous substances shall be in accordance with environmental law. A licensee shall promptly notify the town of any hazardous substance at any time discovered or existing upon the highway. Within twenty-four hours after any violation by a licensee or its contractors of this license pertaining to hazardous substances, the licensee shall give the town notice reporting such violation.
- (18) The town shall have the right, because of a public emergency, to sever, disrupt, remove, tear out, dig up or otherwise damage and/or destroy facilities of a licensee without any prior notice to licensee, if the action is deemed necessary by the town manager. In such event, the town shall not be liable to the licensee, its contractors or its customers or their parties for any harm so caused to them or the facilities except due to gross negligence or willful misconduct of town. The town shall inform the licensee of any actions taken. Licensee shall be responsible for repair at its sole expense of any of its facilities damaged pursuant to any such action taken by the town.

(19) Penalties for violation of license.

- (A) Damages for violation of the license terms. Any remedies available to the town are cumulative, and are not limited by the recovery of any amounts pursuant to the insurance provisions of the license or pursuant to any indemnity clause.
 - (B) A requirement that if the licensee fails to pay amounts owed to the town by the time prescribed for payment, the licensee shall pay interest on the amounts owed, at the rate of one percent (1%) per month.
 - (C) A requirement that licensee shall produce books and records for the town's inspection and copying, prepare reports, respond to questions and permit the town to have access to its facilities as the town may request in order to determine whether licensee has complied with its obligations under the license, or other applicable law.
- c. A licensee that receives a telecommunications service license pursuant to this chapter may apply for a renewal of its license, which renewal shall be reviewed in accordance with the requirements of state law.
- d. Any license granted by the town pursuant to this chapter shall commence upon adoption of the license and acceptance of the license by the licensee within thirty (30) days of the grant. The license shall be effective for a period of five (5) years, and subject to the conditions and restrictions provided in the instrument and this chapter.

5. Compensation.

- a. The town shall not levy a tax, rent, fee or charge to a telecommunications corporation for the use of a public highway to provide telecommunications services, or levy a tax, fee or charge upon the privilege of engaging in the business of providing telecommunications services, except that, in connection with its provisions of telecommunications services and its use of the highways to provide the same, each telecommunications corporation shall:
- (1) Pay a transaction privilege tax on the business of providing telecommunications services or applicable use tax.
 - (2) Pay public highway construction permit fees established from time to time by the town pursuant to Section 8-3-3, Paragraphs A through D.
 - (3) Pay all reasonable costs associated with the construction, maintenance and operation of its facilities in the public highways used to provide telecommunications services, including reasonable costs associated with damage caused to the public highways.
 - (4) A telecommunications corporation that has placed facilities in public highways that carry interstate traffic between and among the telecommunication corporation's points of presence exclusive of facilities used by the local network and the portion of the interstate network that carries intrastate calls, shall pay an annual fee based on the number of linear feet of trench in the public highways.

The rate per linear foot shall be set by council resolution and shall not exceed the highest rate per linear foot a political subdivision charged a licensee on or before December 31, 1999. The rate per linear foot shall not be increased in any year by more than the increase in the average Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics.

- (5) The licensee may provide in-kind benefits such as facilities or services to the town if agreed to by the town and licensee. The calculation of the in-kind benefits shall be set forth in the license. Any in-kind facilities provided to the town under the license shall remain in possession and ownership of the town after the term of the license expires. The value of in-kind benefits shall be less than or equal to, and may be offset against, payments of interstate linear foot charges or transaction privilege tax on the business of providing telecommunications service owed to the town, but shall not be offset for any combination of intrastate and interstate charges.
- b. If the licensee disputes the amount of town construction permit fees or other fees payable under this chapter, the matter shall be referred to a dispute resolution board. The board shall consist of three (3) members agreed upon by both parties. Expenses for the board shall be shared equally by the town and the licensee. The board will hear the dispute promptly, and render a decision within twenty (20) days after the hearing. All decisions of the board are non-binding on the town and the licensee; however, the findings of the board shall be admissible in any legal action. The town and the licensee shall accept or reject findings of the board within thirty (30) days after receipt of the findings. If damages are assessed by the board, the licensee shall pay town within thirty (30) days of receipt of an invoice. Late charges of five percent (5%) and interest charges of one and one-half percent (1.5%) per month shall be added for late payment.
- c. If an application for a license is denied, the town manager will provide the applicant with a written justification for the denial with references to the applicable statutes, ordinances, codes or substantive policy statements on which the denial is based. The notice of denial will explain the applicant's right to protest the denial to the town council, that the applicant must specify the basis for its protest, including a description for why it believes the town council incorrectly denied the license, and that the protest must be filed within 20 working days of the date of the denial.

Section 8-3-4 Street Improvements Constructed Prior to Development; Assessment Policy

When the Council has determined that streets within the Town are necessary before development of the property, the Council may order street improvements to be constructed by the Town at the Town's expense. Such expense shall be assessed against the adjacent property subject to the following:

- A. The assessment of property, if adjacent arterial streets are involved, shall not exceed the cost of improving more than one-half ($\frac{1}{2}$) of the width or more than one thousand (1,000) lineal feet of such adjacent arterial street.
- B. The assessment of property shall not exceed the actual costs incurred by the Town at the time of construction.

Section 8-3-5 Assessment Procedure

The Council, at a public hearing, shall determine the necessity of street improvements if the cost thereof is to be assessed against the adjacent property. Notice of said hearing shall be given to the owners, and other affected persons who would be assessed for the cost of improvements, by regular mail no less than ten (10) days prior to the date of the hearing. Notice of hearing shall contain:

- A. A description of the proposed street improvement.
- B. The estimated cost of assessment for each affected parcel.
- C. The date, time and place that the Council intends to consider the necessity of street improvements and adoption of a resolution of intention. Notice shall also be published in accordance with the provisions of A.R.S. § 39-204 and shall also be conspicuously posted along the line of the proposed improvement at least ten (10) days prior to the hearing on necessity of the improvements.
- D. The property owners and any other persons directly interested in proposed street improvements or the assessment may, prior to the time fixed for the hearing, file in the office of the Town Clerk, a written objection briefly specifying the grounds for objection.
- E. At the time of public hearing, the governing body shall hear and pass upon any objections to the proposed improvements, and its decision shall be final and conclusive. It may modify the extent of the proposed improvements and proceed without the necessity for republishing, reposting and re-mailing new notices.
- F. At the conclusion of the hearings, the Council may pass its resolution of intention directing that plans, specifications and estimates of the cost and expenses of the proposed improvements be prepared by the Town Engineer and filed with the Town Clerk in order that a call for sealed bids be made.
- G. Upon completion of the improvements, the Council shall by resolution, at a public hearing, determine the cost of the improvements and assess against the properties adjacent to the street improvement, the total amount of the costs and expenses of the work in accordance with Section 8-3-4 of this Article. Notice of this public hearing shall be given to the property owner, and other affected persons who would be assessed for the cost of improvements, by regular mail at least ten (10) days prior to the date of the hearing. This notice shall contain:
 - 1. A description of the street Improvement; and
 - 2. The amount of the proposed assessment for each affected parcel of property.
- H. The property owners and any other persons, directly interested in the street improvements or in the assessment, who have any objection to the legality of the assessment or to any of the previous proceedings connected therewith or who claim that the work has not been performed according to the contract, may, prior to the time fixed for the hearing, file in the office of the Town Clerk, a written notice briefly specifying the grounds for objection. At the time fixed for hearing, or at any time thereafter to which the hearing may be postponed, the Council shall hear and rule upon the objections. The decision of the Council shall be final and conclusive as to all errors, informalities and irregularities which the Council might have remedied or avoided at any time during the progress of the proceedings.
- I. The Council's resolution shall provide that any assessments remaining unpaid shall be paid prior to or at the time of the development of the assessed property.
- J. A resolution declaring the assessment and describing the properties against which the assessments are imposed shall be recorded in the Office of the County Recorder. When so recorded, the amount so assessed shall be a lien upon the properties assessed for ten (10) years thereafter, or until such assessments are paid, whichever first occurs, and such recordings shall be notice to all persons interested in the contents of the record.
- K. Any assessment made under this Section shall abate if the property has not been developed within ten (10) years of the assessment.
- L. When it is necessary to improve a full street and sufficient right-of-way is not available, the Town Engineer may obtain the right-of-way upon terms that are just to the property owner and the Town, including assumption by the Town of all or part of the cost of street improvements.

Section 8-3-6 **Manner of Collecting Unsaid Assessments**

At the time of development of the property adjacent and abutting such improvements, the Council shall fix, levy and assess the amount to be repaid upon such property and collect the amounts of such improvements as County taxes are collected. All Statutes providing for the levy and collection of State and County taxes, including collection of delinquent taxes and sale of property for nonpayment of taxes, are applicable to the assessments provided for in this Article.

Section 8-3-7 **Exemptions**

Street improvements otherwise required by this Article shall not be required as follows:

- A. The street improvements required in Section 8-3-2 shall not be required where the property is zoned R1-35 (single-family residential), R1-12 (single-family residential) or R1-6 (single-family residential), except that if the property is a subdivision the Town's Subdivision Code shall apply.
- B. Street improvements shall not be required where the construction alteration or addition consists solely of installation or replacement of mechanical equipment.
- C. Street improvements shall not be required where additions or alterations to a building are less than twenty-five percent (25%) of the value of the building before the addition or alteration is started. The first time a value determination is made after March 5, 1984, for the issuance of a permit to add or alter a building, that value from that time henceforth shall be used. Whenever the subtotal of all alterations and additions from that time exceeds twenty-five percent (25%) of the determined value, street improvements shall be required. Each and every addition or alteration shall be added to the other to determine the applicable percentage.

Section 8-3-8 **Fees**

- A. There shall be a plan review fee of fifty dollars (\$50.00) per page for all plans submitted by an owner for street improvements under this Article.
- B. All street improvements shall be inspected. Owner shall pay the actual costs of all inspections required by the Town. Prior to issuance of a Building Permit, owner shall deposit with the Town an amount of money, as determined by the Building Official, equal to the estimated cost of making the inspections. If the actual cost of making the inspections is less than the amount deposited by owner, the balance shall be returned to owner. If the actual cost of making the inspections is greater than the estimated cost of making the inspections, the owner shall pay to the Town the difference.

Section 8-3-9 **Dedication and Acceptance of Private Roads**  Ord. 979-5/07

This Section sets forth Town requirements for acceptance of private roadways into the Town's street and road system as follows:

1. A written request shall be filed with the Public Works Director identifying the private roadway proposed to be accepted into the Town's street and road system. The Public Works Director shall review the request and determine whether the private roadway shall be accepted.
2. If the Director of Public Works determines that the private roadway should be accepted into the Town's street and road system, the Town will pay the cost of hiring a surveyor to prepare the legal description for the proposed public right-of-way and the cost of any required title search to establish ownership of said right-of-way.

3. All owners of property adjacent to the proposed right-of-way shall dedicate the right-of-way to the Town at no cost to the Town. The right-of-way dedication shall be in fee simple and shall include any utility easements required by the Town.
4. Upon completion of Steps 2 and 3 above, the Town will begin road grading to upgrade the condition of the road.
5. Any phases of additional roadway improvements including, but not limited to chip seal, double chip seal, or hot mix asphalt surfacing shall be reviewed by the Public Works Director and final determination shall be made by the Wickenburg Common Council.
6. Any additional phases of roadway improvements shall require a written agreement between the Town and adjacent property owners who will be responsible for paying the cost of said additional improvements setting forth the terms and conditions of payment for design and construction of the improvements. Design and construction shall not begin until 100% of the estimated cost of design and construction of the roadway is deposited with the Town as determined by the Public Works Director. The deposit for the design and construction of the roadway shall be placed in a special account and used only for such purposes. If the actual cost of design and construction is greater than the estimated cost, the property owners who are parties to the agreement shall pay such additional cost. If the actual costs of design and construction is less than the estimated cost, the Town shall refund the balance of the deposit to the property owners in proportion to the amount they deposited.
7. Any and all utility improvements will be considered at a future date; however, the proposed right-of-way shall allow for future utility needs as set forth in paragraph 3.