

PROPOSED CODE OF ORDINANCES FOR THE  
TOWN OF SUPERIOR, ARIZONA

Prepared By

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Attorney for Superior

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AN ORDINANCE OF THE TOWN OF SUPERIOR, ARIZONA, ADOPTING "THE CODE OF THE TOWN OF SUPERIOR, ARIZONA" BY REFERENCE, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF SUPERIOR, ARIZONA:

Section 1: that certain document, known as "The Code of the Town of Superior, Arizona", three copies of which are on file in the office of the town clerk

of the Town of Superior, Arizona, which document was made a public record by Resolution No. 8 of the Town of Superior, Arizona is hereby referred to, adopted and made a part thereof as if fully set out in this ordinance.

Section 2: Any person found guilty of violating any provision of this code shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed three hundred dollars or by imprisonment. Each day that violation continues shall be a separate offense punishable as herein above described.

Section 3: All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference, are hereby repealed.

Section 4: If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 5: Whereas, it is necessary for the preservation of the peace, health and safety of the Town of Superior, Arizona, an emergency is declared to exist and this ordinance shall become immediately operative and in force from and after the date of posting hereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Superior, Arizona, the 16th day of June, 1977.

APPROVED this 16th day of June, 1977, by the affirmative vote of three fourths of the members of the Common Council of the Town of Superior, Arizona.

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Attorney

Mayor

# Town of Superior

POST OFFICE BOX 158

SUPERIOR, AZ. 85273

OFFICE OF THE MAYOR  
(602) 669-5782

RESOLUTION NO. 8

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF SUPERIOR, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "THE CODE OF THE TOWN OF SUPERIOR, ARIZONA, AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF SUPERIOR, ARIZONA:

THAT certain document entitled "THE CODE OF THE TOWN OF SUPERIOR, ARIZONA", three copies of which are on file in the office of the town clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the town clerk.

WHEREAS, it is necessary for the preservation of the peace, health and safety of the Town of Superior, Arizona, and emergency is declared to exist, and the resolution shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE Mayor and Common Council of the Town of Superior, Arizona, this 16th day of June, 1977.

APPROVED this 16th day of June, 1977 by the affirmative vote of three fourths of the members of the Common Council of the Town of Superior, Arizona.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

#### Chapter 1 General

### Article 1-1 HOW CODE DESIGNATED AND CITED

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of the Town of Superior, Arizona", and may be so cited. Such code may also be Cited as the "Superior Town Code".

### Article 1-2 CONSTRUCTION OF ORDINANCES

The rules and the definitions set forth in this chapter shall be observed in the construction of this Code and the ordinances of the town unless such construction would be inconsistent with either the manifest intent of the council or the context of this code or the ordinances of the town.

### Article 1-3 DEFINITIONS\*

- 1-3-1 General Rule Regarding Definitions
- 1-3-2 Acts by Agents
- 1-3-3 Clerk

- 1-3-4 Code
- 1-3-5 Council
- 1-3-6 Day
- 1-3-7 Daytime, Nighttime
- 1-3-8 Department, Board, Commission, Office, Officer or Employee
- 1-3-9 Gender; Singular and Plural
- 1-3-10 In the Town
- 1-3-11 Joint Authority
- 1-3-12 Month
- 1-3-13 Oath
- 1-3-14 Or, And
- 1-3-15 Person
  - 1-3-16 Personal Property
  - 1-3-17 Preceding, Following
  - 1-3-18 Property
  - 1-3-19 Real Property
  - 1-3-20 Shall, May
- 1-3-21 Shall Have Been
  - 1-3-22 Signature or Subscription by Mark
  - 1-3-23 State
  - 1-3-24 Tenant or Occupant
  - 1-3-25 Tenses
  - 1-3-26 Time--Computation
  - 1-3-27 Time--Reasonable
  - 1-3-28 Town
  - 1-3-29 Week
  - 1-3-30 Writing
  - 1-3-31 Year

\*State law reference. For definitions and construction of statutes generally, see A.R.S., 1-211 to 1-21

1-3-1 General 1-3-8

### Section 1-3-1 General Rule Regarding Definitions

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

### Sec. 1-3-2 Acts by Agents

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

### Sec. 1-3-3 Clerk

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

### Sec. 1-3-4 Code

The words "the code" or "this code" shall mean "The Code of the Town of Superior, Arizona", unless the context indicates otherwise.

### Sec. 1-3-5 Council

Whenever the word ‘council’ is used, it shall be construed to mean the common council of the Town of Superior, Arizona.

#### Sec. 1-3-6 Day

A “day” is the period of time between any midnight and the midnight following.

#### Sec. 1-3-7 Daytime, Nighttime

“Daytime” is the period of time between sunrise and sunset. “Nighttime” is the period of time between sunset and sunrise.

#### Sec. 1-3-8 Department, Board, Commission, Office, Officer or Employee

Whenever any “department, board, commission, office, officer or employee” is referred to, it shall mean a department, board, commission, office, officer or employee of the town, unless the context clearly indicates otherwise.

#### 1-3-9 General 1-3-17

#### Sec. 1-3-9 Gender; Singular and Plural

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

#### Sec. 1-3-10 In the Town

The words “in the town” or “within the town” shall mean and include all territory over which the town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

#### Sec. 1-3-11 Joint Authority

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

#### Sec. 1-3-12 Month

The word “month” shall mean a calendar month.

#### Sec. 1-3-13 Oath

“Oath” includes affirmation or declaration.

#### Sec. 1-3-14 Or, And

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

#### Sec. 1-3-15 Person

The word “person” shall extend and be applied to firms, corporations or voluntary associations, as well as to individuals, unless plainly inapplicable.

#### Sec. 1-3-16 Personal Property

The word “property” shall include real and personal property.

#### Sec. 1-3-17 Preceding, Following

The words “preceding” and “following” mean next before and next after, respectively.

1-3-18 General 1-3-26

#### Sec. 1-3-18 Property

The word “property” shall include real and personal property.

#### Sec. 1-3-19 Real Property

Real property shall include lands, tenements and hereditaments.

#### Sec. 1-3-20 Shall, May

“Shall” is mandatory and “may” is permissive.

#### Sec. 1-3-21 Shall Have Been

The words “shall have been” include past and future cases.

#### Sec. 1-3-22 Signature or Subscription by Mark

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

#### Sec. 1-3-23 State

The words “the state” shall be construed to mean the State of Arizona.

#### Sec. 1-3-24 Tenant or Occupant

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

#### Sec. 1-3-25 Tenses

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

### Sec. 1-3-26 Time-Computation

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

1-3-27 General 1-4-2

### Sec. 1-3-27 Time-Reasonable

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

### Sec. 1-3-28 Town

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

### Sec. 1-3-29 Week

A "week" consists of seven consecutive days.

### Sec. 1-3-30 Writing

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

### Sec. 1-3-31 Year

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

## Article 1-4 REFERENCE TO CHAPTERS, ARTICLES, OR SECTIONS: CONFLICTING PROVISIONS

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

### Section 1-4-1 Additional Rules of Construction

In addition to the rules of construction specified in Articles 1-2 and 1-3, the rules set forth in this article shall be observed in the construction of this code.

### Sec. 1-4-2 References to this Code

All references to chapters, articles or sections are to the chapters, articles and sections of this code unless otherwise specified.

### Sec. 1-4-3 Conflicting, Provisions--Different Chapters

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

### Sec. 1-4-4 Conflicting Provisions--Same Chapter

If conflicting provisions are found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless, such construction is inconsistent with the meaning of such chapter.

### Article 1-5 SECTION HEADINGS

Headings of the several sections of this code are intended as a convenience to indicate the contents of the section and do not constitute part of the law.

### Article 1-6 EFFECT OF REPEAL

When any ordinance repealing a former ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

### Article 1-7 SEVERABILITY OF PARTS OF CODE

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this code shall be severable, and if any provision of this code is held unconstitutional for any reason by a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining provisions of the code.

### Article 1-8 Penalty, Criminal, Civil Traffic Violations

**A.** Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed one thousand dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as here-in-above described.

**B.** Any violation of or failure or refusal to do or perform any act required or the performance of an act prohibited by the provisions of Chapter II, Articles 11-2 and 11-3 of the Town Code and any amendments thereto constitutes a civil traffic violation. Civil traffic violations are subject to the provisions of Title 28, Chapter 6, Article 20 and 21, Arizona Revised Statutes and amendments thereto.

### Article 1-9 REPEAL OF EXISTING ORDINANCES

1-9-1 Effective Date of Repeal

1-9-2 Ordinances Exempt from Repeal

#### Section 1-9-1 Effective Date of Repeal

All ordinances of the Town of Superior except those specially exempted in this article, now in force and effect are hereby repealed effective at twelve o'clock noon on the day of , 1977, but all rights, duties and obligations created by said ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

### Sec. 1-9-2 Ordinances Exempt from Repeal

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

- A.** Any special ordinance or ordinances regarding franchises, annexations, dedications or zoning.
- B.** Any ordinance making an appropriation.
- C.** Any ordinance affecting any bond issue or by which any bond issue may have been authorized.
- D.** The running of the statutes of limitations in force at the time this code becomes effective.
- E.** The continued existence and operation of any department, agency, commission or office heretofore legally established or held.
- F.** Any bond of any public officer.
- G.** Any taxes, fees, assessments or other charges incurred or imposed.
- H.** Any ordinances authorizing, ratifying, confirming, approving or accepting any compact or contract with any other municipality, the State of Arizona, or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof.

### Article 1-10 EFFECTIVE DATE OF CODE

Each and every section of this code as herein contained and hereby enacted shall take effect and be in force on and after twelve o'clock noon on the 16 day of June 1977, except that where a later effective date is provided it shall prevail.

#### Chapter 2 Mayor and Council

### CHAPTER 2 MAYOR AND COUNCIL

#### Article 2-1 COUNCIL

- 2-1-1 Elected Officers
- 2-1-2 Corporate Powers
- 2-1-3 Duties of Office
- 2-1-4 Compensation
- 2-1-5 Oath of Office
- 2-1-6 Bond
- 2-1-7 Financial Disclosure Statements
- 2-1-8 Vacancies on Council

#### Section 2-1-1 Elected Officers

The elected officers of the town shall be the Mayor and six (6) councilpersons who shall constitute the common council and shall continue in office until assumption of duties of office by their duly elected successors. The Mayor and Councilpersons shall serve four year

overlapping terms in the manner provided by state law and the Town Code.

### Section 2-1-2 Corporate Powers

The corporate powers of the town shall be vested in the Mayor and Council and shall be exercised only as directed or authorized by Jaw. All powers of the council shall be exercised by ordinance, resolution, order or motion.

### Section 2-1-3 Duties of Office

The Mayor and Councilpersons shall assume the duties of office at the first regularly scheduled council meeting in June next following the canvass of votes of the general election, provided that if no general election is held, the duties of office shall be assumed at the next regularly scheduled council meeting in June following the date the general election would have been scheduled pursuant to this code.

### Section 2-1-4 Compensation

The compensation of elective officers of the town shall be fixed from time to time by reviewing the council in accordance with state law.

### Section 2-1-5 Oath of Office

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

2-1-6 Mayor and Council 2-1-8

### Section 2-1-6 Bond

Prior to taking office, the Mayor and every councilperson shall execute and file an official bond provided by the town, enforceable against the principal and its sureties, conditioned on the due arid faithful performance of official duties<sub>1</sub> payable to the state and to and for the use and benefit of the town or any person who may be injured or aggrieved by the wrongful act or default of such officer in his/her official capacity. A person so injured or aggrieved may bring suit on such bend under provisions of the Arizona Revised Statutes. Bonds shall be in such sum as shall be provided by resolution and the premium for such bonds shall be paid by the town. A blanket bond as may be allowed by law may satisfy this requirement

### Section 2-1-7 Financial Disclosure Statements

Prior to January 31st of each year, the Mayor and each member of the council shall file a Financial Disclosure Statement on a form prescribed by the Clerk. The Disclosure Statement shall be in compliance with, and disclose all Information required by Town of Superior Resolution No. 1 and any other ordinance or resolution the Council may adopt from time to time on disclosure.

### Section 2-1-8 Vacancies in Council

**A.** The council shall fill, by appointment for the unexpired tent, any vacancy on the Council or in the Mayors office for whatever reason. The procedure for announcing the vacancy, accepting applications or nominations for, and filling the vacancy shall be as follows:

**1.** If the vacancy should be declared between October 1st of a non-election year and March 15th of an election year, then, at the discretion of the Council, the position may remain open until the Primary or General election.

**a.** If the term for the vacant seat was to have expired in the election year, the seat shall be filled with the

candidate from the Primary or General who received the highest number of votes if that candidate received a majority of the votes cast for said position.

- b.** If the term for the vacant seat would not expire in the election year, then the clerk shall include upon the ballot for the regular election, a place for candidates to run for the unexpired term of the vacant seat. All nomination documents shall designate the position for which the candidate is running and all candidates for the unexpired term shall comply with Arizona Election Laws regarding disclosure and time periods for filing. The candidate running in such advisory election and receiving the highest number of votes shall be appointed for the unexpired term,
- c.** At the meeting called to canvass the vote for any election to which sub-section A(1) applies, the council shall fill the vacant seat with the successful candidate.

#### 2-1-8 Mayor and Council 2-1-8

**2.** Upon creation of any vacant position for Mayor or Council which the Council does not vote to fill pursuant to subsection A(1) of this section, the Clerk shall properly insure that each council member is aware of the vacancy, and within 48 hours shall notify the local news media of such vacancy and the fact that applications, resumes, and letters of recommendation for the appointment to such vacant position will be accepted.

- a.** Within seven (7) days, a notice of such vacancy and the time period for acceptance of applications shall be published one (1) time in the manner public notices are publicized in the town. Applications, resumes, and letters of recommendations shall be accepted for a period of fourteen (14) days following that publication. No application or resume tendered to or received by the Clerk or council after such date may be considered for appointment by the Council.
- b.** Upon the expiration of the time set for accepting applications, the Clerk shall, within seven (7) days, set a special meeting for the purpose of review and consideration of all applications, resumes and nomination documents received. Said information and discussion thereof may be done in executive session upon open public vote of the council to consider same in executive session at the special meeting. The Clerk shall give all applicants at least 24 hours written notice of the date and time of the special meeting and/or executive session in which the applications are to be reviewed and discussed by the council. The executive session or special meeting may be continued from time to time to allow proper review, input, and investigation of all applications and applicants.
- c.** Upon receipt of notice that the council has completed review and investigation of the applications, the Clerk shall, within ten (10) days thereof, set a special meeting in open public session at which time one or more, but not more than five (5), applicants chosen by the council may address the council at the public meeting. Each applicant chosen shall have the opportunity to appear and address the council and answer questions the Mayor and council may have.
- d.** At the next regularly scheduled meeting following the session in which applicants appear to address the council, the floor shall be open for nominations with the position to be filled by majority vote of the Mayor and council. The matter shall be on the agenda for each regularly scheduled meeting thereafter until the position has been filled.
- e.** Should no applications be received within the time periods set for receipt of same, the Clerk shall schedule a special meeting and call for executive session, not sooner than seven (7) nor more than fourteen (14) days following the deadline set for receipt of the applications pursuant to sub-section 2-1-8(A)2(a). At which time, the council shall meet and consider the appointment to fill the position. Following full discussion on the appointment to fill the vacancy, the floor shall be open for nominations. The matter shall be on the agenda for each regularly scheduled meeting thereafter until the position has been filled.

**B.** Only those candidates holding the minimum requirements under State law and the Town Code shall be considered for

appointment under this Section.

2-2 Mayor and Council 2-2-4

## ARTICLE 2-2 MAYOR

- 2-2-1 Selection of Mayor
- 2-2-2 Vice Mayor
- 2-2-3 Acting Mayor
- 2-2-4 Powers and Duties of the Mayor
- 2-2-5 Absence of Mayor
- 2-2-6 Failure to Sign Documents

### Section 2-2-1 Selection of Mayor

- A.** The Mayor shall be elected by majority vote of the qualified electorate of the Town pursuant to procedures set forth in this code and state law.
- B.** The Mayor shall serve for a four (4) year term. The Council Is empowered to fill any vacancy for any unexpired term; the appointee shall be an elected member of the Town Council or chosen pursuant to subsection 2-14(A) of this Code.

### Section 2-2-2 Vice Mayor

At the first meeting of the council In June following an election, the Mayor, with council approval, shall designate one of the council members as vice mayor, who shall serve at the pleasure of the council. The vice mayor shall have the powers to perform the duties of the mayor during the absence or disability of the Mayor.

### Section 2-2-3 Acting Mayor

In the absence or disability of both the mayor and vice mayor, the council may designate another of its members to serve as acting mayor who shall have all the powers, duties and responsibilities of the mayor during such absence or disability.

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

The mayor shall:

- A.** Be the chief executive officer of the town.
- B.** Be the chairman of the council and preside over its meetings. He/she may make arid second motions and shall have a voice and vote in all its proceedings.
- C.** Enforce the provisions of this code.
- D.** In the absence of a Town Manager, appoint and remove officers and employees of the town with the approval of the council and exercise supervision over the acts and conduct of the officers and employees of the town. He/she shall inquire into all complaints against such officers or employees for violation or neglect of duty and forward all complaints to the council.

2-2-4 Mayor and Council 2-2-6

- E.** Execute and authenticate by his/her signature such instruments as the council, or any statutes, ordinances or this code shall require.

**F.** Make such recommendations and suggestions to the council as he/she may consider proper.

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

1. Imposition of a curfew in all or any portion of the town.
2. Ordering the closing of any business.
3. Closing to public access any public building, street or other public place.
4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.

**H.** Perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the town.

### Section 2-2-5 Absence of Mayor

The mayor shall not be absent from the town for a period greater than fifteen (15) days without the consent of the council.

### Section 2-2-6 Failure to Sign Documents

If the mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other documents or instrument requiring his/her signature for five days consecutively, then a majority of the members of the council may, at any regular or special meeting, authorize an acting mayor to sign such ordinance, resolution, contract, warrant, demand or other document or instrument which when so signed shall have the same force and effect as if signed by the mayor.

2-3 Mayor and Council 2-3-5

## Article 2-3 COUNCIL ELECTION

2-3-1 Primary Election

2-3-2 Non-Political Ballot

2-3-3 General Election Nomination

2-3-4 Election to Office

2-3-5 Candidate Financial Disclosure

### Section 2-3-1 Primary Election

Any candidate who shall receive at the primary election a majority of all the votes cast shall be declared elected to the office for which he is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate; provided that if more candidates receive a majority than there are offices to be filled then those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected.

### Sec. 2-3-2 Non-Political Ballot

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

### Sec 2-3-3 General Election Nomination

If at any primary election there is any office for which no candidate is elected, the primary election shall be considered to be an election for nomination of candidates for such office, and a general municipal election shall be held to fill such office. Candidates to be placed on the ballot at the general election shall be those not elected at the primary election and shall be equal in number to twice the number to be elected to any given office unless there be less than that number named on the primary election, ballot. Persons who receive the highest number of votes for the respective offices at the primary election shall be the only candidates at such general election, provided that if there be any person who, under the provisions of this article, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes there-for, then all such persons receiving an equal number of votes shall likewise become candidates for such office.

### Sec. 2-3-4 Election to Office

The candidates equal in number to the persons to be elected who receive the highest number of votes shall be declared elected.

### Sec. 2-3-5 Candidate Financial Disclosure

Each candidate for the office of councilman shall file a financial disclosure statement on a form prescribed by the clerk when such candidate files a nomination paper. The statement shall contain such information as required by resolution of the council.

2-4 Mayor and Council 2-4-3

## Article 2-4 COUNCIL PROCEDURE

- 2-4-1 Regular Meetings
- 2-4-2 Special Meetings
- 2-4-3 Meetings to be Public
- 2-4-4 Quorum
- 2-4-5 Agenda
- 2-4-6 Order of Business
- 2-4-7 Committees and Commissions
- 2-4-8 Voting
- 2-4-9 Suspension of Rules

### Section 2-4-1 Regular Meeting

The council shall hold regular meetings on the first and third Thursday of each month at seven o'clock p.m., provided that when the day fixed for any regular meeting of the council falls upon a day designated by law as a legal holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday. All regular meetings of the council shall be held in the Pinal County Administration Building located in Superior.

### Sec. 2-4-2 Special Meetings

The mayor or the council upon the written request of four members may convene the council at any time after giving at least twenty-four hours notice of such meeting to members of the council and the general public. The notice shall include the date, hour and purpose of such special meeting. In the case of an actual emergency a meeting may be held upon such notice as is appropriate to the circumstances.

### Sec. 2-4-3 Meetings to be Public

- A.** All official meetings of the council at which any legal action is taken shall be open to the public. Notice of meetings shall be given in a manner consistent with state statutes. Upon approval by a majority vote of the council, the council may meet in a closed executive session for a discussion of the following:
1. Consideration of employment, assignment, appointment, promotion., demotion, salaries, disciplining or resignation of a public officer, appointee or employee of the town, except that with the exception of salary discussions, an officer, appointee or employee may demand that such discussion or consideration occur at a public meeting.
  2. Consideration of records exempt by law from public inspection.
  3. Consultation for advice with the town attorney.
- B.** Minutes of executive sessions shall be kept confidential except from members of the council.
- C.** No executive session may be held for the purpose of taking any final action or making any final decision.

2-4-4 Mayor and Council 2-4-6

### Sec. 2-4-4 Quorum

A majority of the councilmen shall constitute a quorum for transacting business but a lesser number may recess from time to time and complete the attendance of absent members.

### Sec. 2-4-5 Agenda

Prior to each council meeting, or on or before a time fixed by the council for preparation and distribution of an agenda, whichever is earlier, the clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council, and prepare an agenda according to the order of business and shall furnish each council member, the mayor and the attorney with a copy of the agenda and any material pertinent thereto.

### Section 2-4-6 Order of Business

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

- A.** Call to Order. The mayor shall take the chair precisely at the hour appointed for the meeting and shall immediately call the council to order. In the absence of both the mayor and vice mayor, the clerk shall call the council to order and an acting mayor shall be selected to chair the meeting. Upon the arrival of the mayor or the vice mayor, the vice mayor or the acting mayor shall immediately relinquish the chair upon the conclusion of the business immediately before the council. The mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meetings in accordance with the parliamentary rules contained in Robert's Rules of Order unless otherwise specified.
- B.** Salute to the Flag and Invocation. The Council and the public may salute the flag of the United States of America and the

presiding officer may call for an invocation or a moment of silence.

**C. Roll Call.** Before proceeding with the business of the council, the clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum is not present, the members present may adjourn pursuant to Section 2-4-4 of this code.

**D. Consent Agenda** Items of a non-controversial nature may be grouped together for a single vote. This item may include, but not be limited to minutes, reports, claims and information. Any council member may remove any item from the consent agenda for separate discussion and vote as deemed necessary. Such items shall then become the next order of business at the same meeting.

**E. Petitions.** Petitions, remonstrances, communications and comments or suggestions from citizens present shall be heard by the council. All such remarks shall be addressed to the council as a whole and not to any member thereof. Such remarks shall be limited to three (3) minutes unless additional time is granted by the council. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer. The open meeting law precludes discussion of any matter brought before the council under this section which, are not separately set forth on the agenda.

**F. Business.** The Council shall consider any business which is properly identified on the posted agenda, including the introduction or reading of ordinances and resolutions.

2-4-6 Mayor and Council 2-5-1

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

### Sec. 2-4-7 Committees and Commissions

The council may create such committees and commissions, standing or special, as it deems necessary. Such committees shall consist of as many members and shall perform such duties as the council may require and shall exist at the pleasure of the council.

### Sec. 2-4-8 Voting

**A.** The mayor shall vote as a member of the council.

**B.** Upon the request of any member, the ayes and nays upon any question shall be taken and entered in the minutes.

### Sec. 2-4-9 Suspension of Rules

Any of the provisions of this chapter may be temporarily suspended in connection with any matter under consideration by a recorded vote of three—fourths of the members present, except that this section shall not be construed to permit any action that is contrary to state statutes.

## Article 2-5 ORDINANCES, RESOLUTIONS AND CONTRACTS

### 2-5-1 Prior Approval

2-5-2 Introduction

2-5-3 Same Day Passage Prohibited

2-5-4 Two Separate Readings

2-5-5 Requirements for an Ordinance

2-5-6 Effective Date of Ordinances

2-5-7 Signatures Required

2-5-8 Publishing Required

2-5-9 Posting Required

### Section 2-5-1 Prior Approval

All ordinances, resolutions and contract documents shall, before presentation to the council, have been reviewed as to form by the attorney. When there are substantive matters of administration involved, all ordinances, resolutions and contract documents shall be referred to the person who will be charged with the administration of such ordinance, resolution or contract. Such person shall have an opportunity to present comments, suggestions and objections, if any, prior to the passage of the ordinance, resolution or acceptance of the contract.

2-5-2 Mayor and Council 2-5-7

### Sec. 2-5-2 Introduction

Ordinances, resolutions and other matters or subjects requiring action by the council shall be introduced and sponsored by a member of the council, except that the attorney or the clerk may present ordinances, resolutions and other matters or subjects to the council, and any councilman may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise they shall not be considered.

### Sec. 2-5-3 Same Day Passage Prohibited

No ordinance, except an emergency ordinance, shall be put on its final passage on the same day on which it was introduced.

### Sec. 2-5-4 Two Separate Readings

All ordinances, except emergency ordinances, shall have two separate readings, but the first and the second reading shall never be made on the same day. The first reading may be by title only, but the second reading shall be in full unless the council, in possession of printed copies of said ordinance, shall unanimously allow reading by title only.

### Sec. 2-5-5 Requirements for an Ordinance

Each ordinance may have only one subject, the nature of which is clearly expressed in the title. Whenever possible, each ordinance shall be introduced as an amendment to this code or to an existing ordinance and, in such case, the title of the sections to be amended shall be included in the ordinance.

### Sec. 2-5-6 Effective Date of Ordinances

No ordinance, resolution or franchise shall become operative until thirty days after its passage by the council and approval by the mayor, except measures necessary for the immediate preservation of the peace, health or safety of the town, but such an emergency measure shall not become immediately operative unless it states in a separate section the reason why it is necessary that it should become immediately operative, and unless it is approved by the affirmative vote of three-fourths of all the members elected to the council taken by ayes and nays.

### Sec. 2-5-7 Signatures Required

Every ordinance passed by the council shall, before it becomes effective, be signed by the mayor and attested by the clerk.

2-5-8 Mayor and Council 2-6-2

**Sec. 2-5-8 Publishing Required**

Only such orders, resolutions, motions, regulations or proceedings of the council shall be published as may be required by state statutes or expressly ordered by the council.

**Sec. 2-5-9 Posting Required**

Every ordinance imposing any penalty, fine, forfeiture or other punishment shall, after passage, be posted by the clerk in three or more public places within the town and an affidavit of the person whom posted the ordinance shall be filed in the office of the clerk as proof of posting.

**ARTICLE 2-6 PLANNING AND ZONING COMMISSION**

2-6-1 Established  
2-5-2 Membership  
2-6-3 Officers  
2-6-4 Duties

2-6-5 Meetings  
2-6-6 Voting  
2-6-7 Fees

**Section 2-6-1 Established**

The Planning and Zoning Commission of the Town of Superior is hereby established.

**Section 2-6-2 Membership**

**A.** The Planning and Zoning Commission shall be composed of a total of seven members who shall be residents of the town. The members of the commission shall be appointed by the mayor subject to the approval of the council. These appointments shall be for a period of three years each, with the terms of members so staggered that the terms of no more than three members shall expire in any one year. The initial appointments shall be for two members with terms beginning on July 1, 1986, and expiring on June 30, 1987; for two members with terms beginning on July 1, 1986, and expiring on July 30, 1988; and for three members with terms beginning on July 1, 1986, and expiring on June 30, 1989. Thereafter, all members shall be appointed for full three year terms, except that in the event of death or resignation of a member the vacancy may be filled for the unexpired term. The term of all members shall extend until their successors are qualified; except that three successive unexcused or unexplained absences from any regular or special meeting shall be grounds for termination at the will and pleasure of the appointing authority without the necessity of a hearing or notice and such action shall be final.

**B.** All members shall serve without pay. Members of the commission may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the commission and approval of such expenditures by the council.

2-6-3 Mayor and Council 2-6-7

**Sec. 2-6-3 Officers**

The commission shall elect a chairman and vice chairman from among its own members, who shall serve for one year and until their successors are elected and qualified. The chairman shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization. The chairman shall have the power to administer oaths and to take evidence. The vice chairman shall

perform the duties of the chairman in the absence or disability of the chairman. Vacancies created by any cause shall be filled for the unexpired term by a new election.

#### Sec. 2-6-4 Duties

It shall be the duty of the said commission to formulate, create and administer any lawful plan duly adopted by the governing body for the present and future growth of the city pertaining to the use of land and buildings for any purpose, together with all incidental activities usually associated therewith and commonly known as "Planning and Zoning"; to make or cause to be made a continuous study of the best present and future use to which land and buildings shall be put within the town and in cooperation with adjacent areas; to recommend to the governing body revisions in such plans which, in the opinion of the commission, are for the best interest of the citizens of the town; to promulgate rules of procedure and to supervise the enforcement of rules so promulgated by the commission and approved by the governing body.

#### Sec. 2-6-5 Meetings

The commission shall provide in its rules for its meetings; provided, that special, meetings may be called by the chairman or in his absence the vice chairman. In addition, any three members of the commission may make written request to the chairman for a special meeting and in the event such meeting is not called, such members may call such special meeting in such manner and form as may be provided in the commission rules.

#### Sec. 2-6-6 Voting

Four members shall constitute a quorum. The affirmative vote of four members shall be required for passage of any matter before the commission. The minutes of the meetings shall reflect the 'ayes' and 'nays' cast on a particular measure and shall reflect the vote of each member present. A member may abstain from voting only upon a declaration that he has a conflict of interest, in which case such member shall take no part in the deliberations on the matter in question.

#### Sec. 2-6-7 Fees

The commission shall be authorized to establish a uniform schedule of fees for services with all receipts to be paid into the general fund of the town. Such fee schedules shall become effective upon approval by the council.

### Chapter 3 Administration

## Chapter 3 Administration

### Article 3-1 OFFICERS IN GENERAL

- 3-1-1 Officers
- 3-1-2 Additional Officers
- 3-1-3 Bond
- 3-1-4 Vacancies; Holding More Than One Office
- 3-1-5 Additional Powers and Duties

#### Sec. 3-4-1 Officers

There are hereby created the offices of town manager, town clerk, town marshal, town engineer, town attorney and town magistrate who shall be appointed by the Council and who shall serve at the will and pleasure of the Council.

Sec. 3-1-2 Additional Officers

The Council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or state statute.

Sec. 3-1-3 Bond

The Council shall require each officer of the Town to give bond for the due discharge of his duties in such sums and with such security as it may direct and approve as determined by resolution and the Town shall pay the costs of such bond.

Sec. 3-1-4 Vacancies; Holding More than One Office

Any vacancy that shall occur in any Town office shall be filled by appointment by the Mayor with the approval of the Council, provided that one person may hold more than one office and that at the discretion of the Council, the functions of a town official may be validly performed and discharged by a deputy or another town official, or an otherwise qualified individual not holding office but employed at the pleasure of the Council.

Sec. 3-1-5 Additional Powers and Duties

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties and hold such other office as may be provided by the Council through ordinance, resolution or order.

3-2 Administration 3-2-1

Article 3-2 OFFICERS

- 3-2-1 Town Manager
- 3-2-2 Town Clerk
- 3-2-3 Town Marshal
- 3-2-4 Town Attorney
- 3-2-5 Town Magistrate

Sec. 3-2-1 Town Manager

**A. Powers and Duties.** The Manager shall be the administrative head of the government of the Town under the direction and control of the Council. He shall be responsible for the administration of all affairs of the Town which are under his control. In addition to his general powers as administrative head, it shall be his duty and he shall have the powers set forth in the following subsections:

- 1. Law Enforcement.** It shall be the duty of the manager to see that all laws and ordinances of the Town, and that all franchises, contracts, permits and privileges granted by the Council are faithfully observed and to report any failure in that regard to the Council, which shall give such instruction and direction as it may desire for remedial, corrective or terminating action by the Manager.
- 2. Authority Over Employees.** It shall be the duty of the Manager, and he shall have the sole authority to control, order and give

directions to all heads of departments and to subordinate officers and employees of the Town under his jurisdiction through their department heads.

3. Power of Appointment and Removal. Subject to approval by the Council and to the exceptions expressly provided by this Chapter, it shall be the duty of the Manager to, and he shall appoint, remove, promote, and demote any and all officers and employees Of the town, except Magistrate, Attorney, Clerk, Counsel, and members of Boards, and Commissions and Committees, all of whom shall be appointed by the Council. As to these officials, he shall recommend appointment and removal. All this shall be subject to all applicable personnel ordinances, rules and regulations.
4. Ordinances. It shall be the duty of the Manager to recommend to the Council such measures and ordinances as he deems necessary.
5. Attendance at Council Meetings. It shall be the duty of the Manager to attend all meetings of the Council unless he is excused there from by the Mayor individually or by the Council. Except when his removal is under consideration, he shall present definite recommendations relative to each item on the agenda for approval, rejection or modification by the Council.
6. Financial Reports. It shall be the duty of the Manager to keep the Council fully advised as to the needs of the Town in such form and at such times as requested by the Council.
7. Budget. It shall be the duty of the Manager to prepare and submit the proposed annual budget and the proposed annual salary plan to the Council for its approval.

3-2-1 Administration 3-2-1

8. Expenditure Control and Purchasing. It shall be the duty of the Manager to see that no indebtedness is incurred or expenditure made in violation of the State Budget Law, and Arizona Revised Statutes or Town Ordinance.
  9. Investigations and Complaints. It shall be the duty of the Manager to make investigations into the affairs of the Town and any department or division thereof, and any contract or the proper performance of any obligations of the Town and to report all findings to the Council. Further, it shall be the duty of the Manager to investigate all complaints in relation to matters concerning the administration of the Town government and in regard to the service maintained by public utilities in said Town and report all findings to the Council.
- B. Residence.** Residence in the Town at the time of appointment as Manager shall not be required as a condition for the appointment, but within sixty (60) days after reporting for work the Manager must become a resident of the Town unless the council approves his residence outside the Town.
- C. Eligibility.** No member of the Council shall be eligible for appointment as Manager until one year has elapsed after such Council member shall have ceased to be a member of the Council.
- D. Acting Town Manager.** In the event of the absence or disability of the Manager, his powers and duties, subject to Council ratification shall evolve upon the following officers of the Town and they are so appointed in the following order as each succeeding officer may be absent or disabled:
1. Mayor
  2. Town Clerk
  3. Vice Mayor
- E. Compensation.** The Manager shall receive such compensation as the Council shall from time to time determine. In addition, the Manager shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his official duties.
1. Involuntary Removal. The manager serves at the will and pleasure of the Town Council. On termination of employment of the Manager by reason of involuntary removal from service other than for willful misconduct in office, the Manager shall receive cash severance pay in a lump sum equal to two (2) month's pay, such pay to be computed at the salary received by the Manager for the preceding month of his service with the Town.

**F. Council- Manager Relations.** The Council and its members shall deal with the administration services of the Town only through the Manager, except for the purpose of inquiry, and neither the Council, nor any member thereof, shall give orders or instructions to any employee or officer other than the Manager. The Manager shall 'take his orders and instructions from the Council only when promulgated at a duly convened meeting of the Council, and no individual Councilman shall give any orders or instructions to the Manager.

### 3-2-1 Administration 3-2-2

**G. Attendance at Commission Meetings.** The Manager may attend any and all meetings of all commission, boards, or committees created by the Council, upon his own volition or upon direction of the Council. At such meetings which the Manager attends, he shall be heard by such commissions, boards or committees as to all matters upon which he wishes to address the members thereof, and he shall inform said members as to the status of any matter being considered by the Council, and he shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the Council, however, at no time shall he disclose matters discussed in Executive Session of the Council.

**H. Discretion of Council on removal.** In removing the Manager, the Council shall act at its discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at a hearing.

**I. Limitation On Removal.** Notwithstanding the provisions of sub-section H herein, the Manager shall not be removed from office, other than for misconduct in office, during or within a period of ninety (90) days next succeeding any general election held in the Town which election a member of the Council is elected or when a new Councilman is appointed; the purpose of this provision is to require any newly elected or appointed member of the Council or a reorganized Council to observe the actions and ability of the Manager in the actual performance of the powers and duties of his office.

**J. Resignation of Manager.** The Manager shall provide the Council a minimum of forty—five (45) days written notice of intention to resign his position. The Manager shall assist the Council in the recruitment and selection of a replacement if requested by the Council. In the event of resignation due to health reasons, the period of written notice shall be determined in conference between the Manager and the Council.

**K. Agreements on Employment.** Nothing in this Article shall be construed as a limitation on the power or authority of the Council to enter into any supplemental agreement with the Manager delineating additional terms and conditions of employment not inconsistent with any provisions of this article or of state statute.

### Sec. 3-2-2 Town Clerk

**A. Records.** The Clerk shall keep a true and correct record of all business transacted by the Council and any other records that either pertain to the business of the Town or that the Council directs. The Clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders, and other documents of whatever nature.

**B. Public Inspection of Records.** The Clerk shall keep convenient for public inspection all public records and public documents under his control, as provided in state statute.

**C. Monthly Reports.** The Clerk shall prepare and collect from Town officers and employees such' monthly reports prepared in such manner and to include such information as may be directed by the Council.

**D. Minutes.** The Clerk shall prepare or cause to be prepared all minutes of Council proceedings and ensure their correctness and accuracy.

**E. Ordinances, Resolutions, Budgets and Notices.** The Clerk shall process, record, file, publish and, if requested by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the Council.

#### 3-2-2 Administration 3-2-4

**F. Duties as Treasurer.** The Clerk shall hold the office of Town Treasurer and receive and safely keep all monies that; shall come to the Town and pay put the same when authorized by the Council. He shall keep a separate record and account of each different fund provided by the Council, apportion the monies received among the different funds as prescribed by the Council and keep a complete set of books showing every money transaction of the Town, the state of each fund, from what source the money in each fund *was* derived and for what purpose expended. The Clerk shall make monthly reports to the Council of all receipts and disbursements and the balance in each fund. At the end of the fiscal year, he shall make a full and detailed statement of the receipts and expenditures of the Town during the year specifying the different sources of revenue and the amount received from each, all appropriations made by the Mayor and Council, and the object for which they were made, and the amount of money expended under each, the evidences of indebtedness issued, and what portion remains thereof outstanding, with the rate and amount of interest due thereon, and the amount of cash on hand.

**G. Election Official.** The Clerk shall be the Town Election Official and perform those duties required by state statute.

**H. Licenses.** The Clerk shall issue or cause to be issued all licenses that má3i be prescribed by state statute or this Code.

**I. Purchasing Agent.** The Clerk shall assist the Town Manager in his capacity as purchasing agent for the Town and make purchases as authorized and directed by the Town Council or Town Manager within the Town's policy of purchasing.

**J. Administrative Duties.** The Clerk shall perform those admini-strative responsibilities and duties that are conferred upon him by the Council in addition to those specified in this Code.

### Sec. 3-2-3 Town Marshall

The Marshall shall be the Chief of Police and shall be collector of all taxes of the Town provided that the collection of such taxes may be administered by the Town Clerk. He shall perform such duties as may be required of him by law and as the Council may deem necessary.

### Sec. 3-2-4 Town Attorney

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

#### 3-2-5 Administration 3-3-1

### Sec. 3-2-5 Town Magistrate

The Town Magistrate shall be the presiding officer of the Town Court, shall be selected by the Council and shall perform those functions necessary to the maintenance of a magistrate court as provided by state statute, this Code or ordinances of the Town.

### Sec. 3-2-6 Town Engineer

The Engineer shall make recommendations and reports to the Town Manager and Council on Town streets and shall perform such duties as may be required of him by law and such other duties as the Council may deem necessary.

## ARTICLE 3-3 APPEALS PROCEDURE FOR REQUIRED DEDICATION OR EXACTION

- 3-3-1 Compliance with Arizona Statute, Appointment of Hearing Officer
- 3-3-2 Notice Provisions, Continuing Education
- 3-3-3 Appeals Procedure, Time Limits, Ruling
- 3-3-4 Legislative Act – Non-applicability

### Sec. 3-3-1 Compliance with Arizona Statute, Appointment of Hearing Officer

**A.** In order to comply with State and Federal laws, there is hereby created the office of Hearing Officer for the Town of Superior to hear appeals from property owners who have been required by a decision of an administrative agency or official of the Town to complete a dedication or exaction as a condition of approving an applied for use, improvement, or development of the owner's real property. All actions of the hearing officer shall be in full compliance with the provisions of A.R.S. §9-500.12 et seq. and with the provisions of this Article. Should there be a conflict between the provisions of this Article and State law, the provisions of State law shall apply.

**B.** The hearing officer shall be appointed by the Mayor and Council and shall serve a term of two (2) years, be over the age of eighteen (18), be a resident of the Town of Superior, shall not be a Town employee other than as a hearing officer, and shall be informed of the Conflict of Interest Policy established by the Town.

**C.** The compensation of the hearing officer shall be determined by the Mayor and Council at the time of appointment and shall include reimbursement for expenses of appearing at hearings. There shall be no change to the compensation during the term of office.

3-3-2 Administration 3-3-3

### Sec. 3-3-2 Notice Provisions, Continuing Education

The Town Manager shall establish procedures to comply with the provisions of A.R.S. §9-500.12 et seq. as same may be amended from time to time, including the establishment of a procedure to notify property owners of their appeal rights pursuant to State law and this Article. The Town Manager shall further establish a method of insuring continuing education and notification of all Town administrative agencies, Town staff and the Mayor and Council of the requirements of State law.

### Sec. 3-3-3 Appeals Procedure, Time Limits, Ruling

**A.** At the time of any decision by an administrative agency or official of the Town which makes a final determination granting the approval of a requested use, improvement, or development of real property subject to the requirement of a dedication or exaction as a condition of granting the approval, the property owner shall be notified in writing of his/her right to -appeal the required dedication or exaction pursuant to this Code and A.R.S. §9-500.12. The notice shall further describe the appeals procedure which shall, in all respects, comply with A.R.S. §9-500.12.

**B.** Should the property owner wish to appeal an appeal able decision:

1. The appeal shall be in writing and filed with or mailed to the hearing officer designated by the Town within thirty (30) days of the decision of the administrative agency or official requiring the dedication or exaction.
2. No fee will be charged for the filing.
3. The hearing officer shall schedule a hearing within thirty (30) days of the receipt of the request.
4. At the hearing, the Town shall bear the, burden of proving that the dedications or exactions being required bear an essential nexus between the requirement imposed and a legitimate governmental interest of the Town and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement, or development proposed by the property owner.
5. The hearing officer shall provide at least ten (10) days notice of the date, time, and place of the hearing unless the property owner acknowledges, in writing, that less notice is acceptable to him/her. The hearing officer must render his/her decision within five (5) working days after the appeal is heard.
6. The hearing officer can affirm the dedication or exaction, modify it, or delete the requirement. His/her decision shall be in writing and delivered to the address provided by the property owner and to the Town Manager and Town Attorney.
7. If the property owner is aggrieved by decision of the hearing officer which modifies or affirms the requirement of the dedication or exaction, the property owner may, within thirty (30) days, after the hearing officer has rendered a decision, file a complaint for a trial de novo in Superior Court on the facts and the law regarding the issues of the condition or the requirement of a dedication or exaction.

3-3-4 Administration 3-3-4

#### Section 3-3-4 Legislative Act – Non-applicability

The provisions of this Article shall not apply to a dedication or exaction required in a legislative act of the Town Council which does not give discretion to an administrative agency or official to determine the nature or extent of the dedication or exaction.

**POLICY OF THE TOWN OF SUPERIOR**  
**ON APPEALS OF REQUIRED DEDICATIONS OR EXACTIONS**

Rights of Property Owner

In addition to other rights granted to you by-the U.S. and Arizona Constitution, federal and state law and Town ordinances or regulations, you are hereby notified of your right to appeal any dedication or exaction which is required of you by an administrative agency or official of the Town as a condition of granting approval of your request to use, improve or develop your property.

Appeal Procedure

If you wish to appeal, the following procedures will apply to your appeal:

- It must be in writing and tiled with or mailed to the hearing officer designated by the Town within thirty (30) days after the administrative agency or official has made his determination requiring the dedication or exaction. The name and address of the hearing officer is as follows:

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- No fee will be charged for filing.
- Your hearing will be scheduled within thirty (30) days of receipt by the hearing officer of your request. The Town will bear the burden of proving that the dedications or exactions to be imposed on your property bear an essential nexus between the requirement and a legitimate governmental interest and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement or development proposed by you.
- Ten (10) days notice will be given to you of the date, time and place of the hearing unless you indicate to the hearing officer in your request that less notice is acceptable to you.
- The hearing officer must render his decision within five (5) working days after the appeal is heard.
- The hearing officer can affirm the dedication or exaction, modify it or delete the requirement.
- If you are dissatisfied with the decision of the hearing officer, you may file a complaint for a trial de novo with the Superior Court within thirty (30) days of the hearing officer decision.

Questions

If you have any questions about this appeal process, you may contact:

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**REPORT ON DEVELOPMENT PROCESS**

as required by Chapter 166 of the Laws of 1995

**NAME OF CITY/TOWN:** Town of Superior

**EDUCATIONAL SESSIONS ATTENDED OR SPONSORED ON NEW REQUIREMENTS:**

League of Cities and Towns Convention and Executive Session with Town Attorney

**PUBLIC HEARINGS OR MEETINGS HELD WITH PROPERTY OWNERS ON NEW APPEALS PROCESS:**

Hearing on adoption of legislation to establish hearing officer position and to establish an appeal and notice procedures - Thursday, October 19, 1995

**DESCRIPTION OF REVIEW PROCESS COMPLETED OR UNDERWAY TO DETERMINE COMPLIANCE WITH RECENT U.S. SUPREME COURT CASES:**

Review of Code by Town Attorney and staff to determine extent of administrative agencies or other Town officials' powers to require a dedication or exaction as a condition of use, improvement or development of real estate

**DESCRIPTION OF APPEALS PROCESS ADOPTED IN RESPONSE TO NEW LAW:**

See attached Code Section and notice

**NAME, ADDRESS AND PHONE NUMBER OF CONTACT PERSON:**

**William L. Tift**  
Town Attorney  
P.O. Box 2521  
Globe, Arizona 85502  
(520) 425-3227

Chapter 4 Police and Fire Department

**CHAPTER 4 POLICE AND FIRE DEPARTMENT**

Article 4-1 POLICE DEPARTMENT

- 4-1-1 Created; Composition
- 4-1-2 Appointment of Officers
- 4-1-3 Compensation of Officers
- 4-1-4 Departmental Rules and Regulations
- 4-1-5 Duties of Police Department
- 4-1-6 Answering Calls Outside the Town

Sec. 4-1-1 Created; Composition

There is hereby created a police department for the town which shall consist of a chief of police who shall also serve as town marshal, and as many police officers as may from time to time be deemed necessary by the council for the safety and good order of the town.

Sec. 4-1-2 Appointment of Officers

The chief of police shall be appointed by the manager with the approval of the council and shall serve at the pleasure of the council. The council shall appoint as many police officers as may from time to time be deemed necessary for the safety and good order of the town.

Sec. 4-1-3 Compensation of Officers

The chief of police and the police officers of the town shall be compensated as determined by the council. The chief of police shall not receive any perquisites, commissions or compensation for his services as chief of police or tax collector, except as the council may prescribe.

Sec. 4-1-4 Departmental Rules and Regulations

The police department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be recommended by the chief of police and approved by council resolution. All amendments to said rules and regulations shall also be approved by council -resolution. The town clerk shall maintain an updated copy of all current rules and regulations.

Sec. 4-1-5 Duties of Police Department

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

- A.** Enforce this code and the statutes of the State of Arizona within jurisdictional limits as conferred by law and to arrest and charge the violators thereof as provided by law and rules and regulations.

4-1-4 Police and Fire Department 4-1-5

- B.** Render such account of the police department, its duties, and receipts as may be required, and keep records of the office

open to inspection by the council or manager at any time.

- C. Direct traffic and ensure the orderly flow thereof and investigate and make reports of traffic accidents and the need for repair or placement of traffic control devices.
- D. Perform such other duties as may be required from time to time to properly enforce state law and this code.

#### Sec. 4-1-6 Answering Calls Outside the Town

The members of the police department of the town are duly authorized to answer calls for aid and assistance beyond the corporate limits of the town whenever the chief of police in his/her discretion shall deem it necessary to protect lives and property and when such assistance is authorized by state statute or an intergovernmental agreement to provide such assistance.

#### Sec. 4-1-5 Police Reserve

- A. There is hereby created a police reserve corps, which members shall be appointed by the police chief and who shall serve at the pleasure of the chief. Such members shall serve without compensation.
  - B. The chief may dismiss a member from the reserve without any hearing whatsoever, and each member shall have the right to resign from said reserve at any time.
  - C. To be eligible for appointment as a police reserve officer, a person shall:
    1. Be not less than 18 years of age.
    2. Be a resident of Pinal County.
    3. Be a citizen of the United States and possess the ability to read and write the English language understandably.
    4. Be of good physical and mental health.
    5. Be of good moral character.
  - D. The chief may set such additional requirements as he/she may deem necessary.
  - E. Each appointee, before entering upon his/her duties, shall sign an oath stating that he/she will faithfully perform the duties of police reserve officer.
  - F. Police reserve officers shall adhere to and be governed by the rules and regulations laid down for the guidance of the police department insofar as such rules and regulations are applicable to and consistent with the special and limited class of duty prescribed for police reserve officers by the police chief. Police reserve officers shall also comply with all other applicable ordinances, rules and regulations adopted by the city council and as instructed by the police chief.
- 4-1-5 Police and Fire Department 4-1-5
- G. The police reserve officers shall not be subject to, or acquire any rights under, the personnel rules or the public safety pension fund of the state or of this city.
  - H. The police reserve officers shall conform to those specifications and regulations as designated by the police chief, and shall purchase badges, equipment and uniforms at their own expense and at no expense to the city, or the police department.
  - I. In the enforcement of the penal laws of the State of Arizona, this code, and the ordinances of the city, and in the performance of such other duties as may be designated by the chief, every duly authorized member shall be deemed to have all the powers of a police officer.

**J.** No person shall impersonate a police reserve officer nor shall any person undertake the duties of a police reserve officer without having first been appointed by the chief of police.

### Section 4-1-6 Impersonating Police Officers

It is unlawful for any person, by wearing or carrying clothing or insignia resembling the uniforms or any parts thereof worn by the police officers of the city, or by doing any act, to impersonate a police officer, marshal, constable, or peace officer in any manner.

**\* Reserved \***

4-2 Police and Fire Department 4-2-3

## Article 4-2 FIRE DEPARTMENT

- Section 4-2-1 Created; Composition
- Section 4-2-2 Departmental Rules and Regulations
- Section 4-2-3 Powers and Duties of Chief
- Section 4-2-4 Powers and Duties of Assistant Chief
- Section 4-2-5 Appointment and Duties of Firefighters
- Section 4-2-6 Entry Upon Adjacent Property
- Section 4-2-7 Equipment
- Section 4-2-8 Providing Fire Protection Outside the Town
- Section 4-2-9 Fire Alarms
- Section 4-2-10 Orders of Fire Chief
- Section 4-2-11 Wearing of Badges or Insignias

### Sec. 4-2-1 Created: Composition

There is hereby created a fire department for the town which shall consist of a chief and as many firefighters and volunteer firefighters as may be recommended by the Chief and approved by the Manager and Council.

### Sec. 4-2-2 Departmental Rules and Regulations

The fire department shall be operated and managed in accordance with such departmental rules and regulations as may be recommended by the Chief and approved by the Manager. Standard Operating Procedures shall be updated or deleted as necessary at the discretion of the chief, however all updates and amendments shall be submitted to the council for review and all rules, regulations and operating procedures

shall be contained in the administrative code. The town clerk shall maintain an updated copy of all current rules and regulations.

### Section 4-2-3 Powers and Duties of Chief

The Fire Chief shall:

- A.** Be appointed by the Manager and shall serve at the will of the Manager and Council as the administrative head of the fire department. He/she plans, organizes, directs and evaluates fire suppression, emergency medical and fire prevention programs and all departmental operations all in conformance with the applicable rules and regulations.
  - B.** Take personal command of firefighting activities at fires and emergencies. During the progress of a fire the authority of the fire chief shall be absolute in all matters directly concerning the extinguishment of the fire and the disposition of property endangered by it.
- 4-2-3 Police and Fire Department 4-2-6
- C.** Conduct suitable drills or instructions in the operation and handling of equipment, emergency medical and rescue work, salvage, a study of buildings in the town, water supplies, and all other matters generally considered essential to good fireman-ship and safety of life and property from fire.
  - D.** Exercise purchasing and budgetary control in compliance with town code and procedure.
  - E.** Review and approve specifications for new equipment and apparatus, and direct the maintenance, repair and replacement of firefighting equipment -
  - F.** Direct the preparation of records and reports to secure efficient operation to meet service demands, and to comply with authorized requests for information regarding firefighting activities and personnel.
  - G.** When authorized by the manager attend regional, state and local conferences, conventions, and meetings to keep abreast of modern firefighting methods and techniques.
  - H.** Perform related work as required by town code or state law.
  - I.** Enforce or cause to be enforced all ordinances affecting the operation of the department.

### Sec. 4-2-4 Powers and Duties of Assistant Chief

The Manager may appoint an Assistant Fire Chief. If such an appointment is made, the assistant chief shall perform all duties of the fire chief when the fire chief is absent and such other duties as may be required by departmental rules and regulations. The assistant chief may be a volunteer.

### Sec. 4-2-5 Appointment and Duties of Firefighters

- A.** Firefighters shall be appointed by the manager upon the recommendation of the fire chief. Full time firefighters shall be subject to personnel rules of the town unless specifically excluded pursuant to this code.
- B.** Volunteer appointees shall be able-bodied citizens at least eighteen (18) years old whose business activities are normally within the confines of the town. Any new member accepted shall reside within a reasonable distance of the town, as determined by the fire chief. Volunteer firefighters may be removed by the chief or manager at anytime without cause.
- C.** All firefighters are subject to control by the Fire Chief as the administrative head of the department.

### Section 4-2-6 Entry Upon Adjacent Property

- A.** It shall be lawful for any firefighter acting under the direction of the chief or another officer in command to enter upon the premises adjacent to or in the vicinity of any building or other property that is on fire for the purpose of extinguishing such fire,
- B.** No person shall hinder, resist or obstruct any firefighter in the discharge of his/her duty as herein before provided.

4-2-7 Police and Fire Department 4-2-8

### Sec. 4-2-7 Equipment

The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire. Recommendations concerning apparatus and equipment needed shall be made by the chief, and after approval by the Manager, such apparatus and equipment shall be purchased in such manner as may be designated by the council. All equipment of the department shall be safely and conveniently housed in such a place or places as may be designated by the Fire Chief and approved by the Manager. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully take away or conceal any articles used in any way by the department. No person shall enter anyplace where the fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having special permission of, an officer or authorized member of the department. No fire apparatus or equipment shall be hired out or permitted to leave the fire station except for training or in response to a call for aid at a fire within the corporate limits of the town or in response to a call for aid at a fire in an area authorized for fire protection service or mutual aid under provisions of Section 4-2-8.

### Section 4-2-8 Providing Fire Protection Outside the Town Limits

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

1. To protect town property located outside the town,
2. To protect property within the town threatened by a fire outside the town.
3. To protect other public property within a reasonable distance outside the town limits.
  4. To go to the aid of a community threatened with disaster or loss of life as the result of a spreading and uncontrolled conflagration as determined by the fire chief.
  5. To go to the aid of a fire protection district, municipality or other entity having an agreement in force with the town providing for said protection.

**B.** Protection of Public Property: Nothing in this article shall prevent the fire department from rendering service to buildings which are owned or operated by Pinal County, the State of Arizona, the United States of America, school districts, or by other such governmental agencies. The fire chief shall, at the time of a request for such service, determine if the fire department can, with safety to the property within the town limits, render town fire protection. The decision to furnish such protection shall be at the discretion of the fire chief or his/her designated representative.

**C.** Mutual Aid Agreements: The Council shall be authorized to enter into mutual aid agreements between the town and any municipalities or publicly constituted fire district, within a reasonable distance of the town, wishing to participate in reciprocal fire protection service, pursuant to state statute.

1. No agreement shall be effective until properly approved by the Mayor and Council and the participating municipality or fire district.

4-2-8 Police and Fire Department 4-3

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

equipment.

### Sec. 4-2-9 Fire Alarms

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

### Sec. 4-2-10 Orders of Fire Chief

It is unlawful for any firefighter or citizen to refuse to obey an order issued by the fire chief pursuant to his/her authority.

### Sec. 4-2-11 Wearing Badges or Insignia of Officials

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

## Article 4-3 FIRE PREVENTION CODE

Section 4-3-1 Adoption of the Uniform Fire Code and State of Arizona Fire Code

Section 4-3-2 New Materials, Processes or Occupancy Which May Require Permits

Section 4-3-3 Violation - Penalties

### Sec. 4-3-1 Adoption of the Uniform Fire Code and State of Arizona Fire Code

**A.** That certain code entitled the "Uniform Fire Code" 1985 Edition, prepared by the International Conference of Building Officials and the Western Fire Chief's Association, together with the amendments, additions and deletions thereto adopted by the Department of Building and Fire Safety of the State of Arizona, as set forth in Regulations 4-34-1101, all of which is entitled the "State of Arizona Fire Code", is hereby adopted as the Fire Prevention Code of the Town of Superior and made a part of this Chapter and Code and is incorporated herein by reference as if fully set forth herein. At least three copies of said Fire Code have been and are now on file in the Office of the Cleric of the Town of Superior and are declared to be public record and henceforth, said State of Arizona Fire Code shall be controlling within the corporate limits of the town.

**B.** The "State of Arizona Fire Code" (Fire Code) adopted by reference is further modified as follows:

**1.** Section 2.201(b) shall read as follows:

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to

4-3-1 Police and Fire Department 4-3-3

existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment as specified in this code or any other effective ordinance, are, for the purpose of this section, unsafe buildings. All such unsafe buildings are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified by this code or by any other procedures provided -by law and any amendments thereto.

### Sec. 4-3-2 New Materials Processes or Occupancy Which May Require Permits

The Town Manager and the Fire Chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in said fire code.

The chief shall post such list in a conspicuous place in his/her office, and distribute copies thereof to interested persons and request this code to be amended to include such changes.

### Section 4-3-3 Violation - Penalties

- A.** A person shall be guilty of a Class 1 misdemeanor if they are found to:
1. Violate or fail to comply with any provision of the Fire Code or Standards hereby adopted.
  2. Violate or fail to comply with any order made there-under.
  3. Build in violation of any detailed statement of specifications or plans submitted and approved there-under, or any certificate or permit issued there-under, and from which no appeal has been taken.
  4. Fail to comply with such an order as affirmed or modified by the Chief or by the court of competent jurisdiction, within the time fixed herein.
- B.** The imposition of one penalty for any violation shall not excuse the violation or permit to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained or allowed to continue shall constitute a separate offense.
- C.** The application of the above penalty shall not be held to prevent the forced removal of prohibited conditions.

#### Chapter 5 Magistrate Court

## CHAPTER 5 MAGISTRATE COURT

### Article 5-1 Magistrate Court Established: Jurisdiction

There is hereby established in the town a magistrate court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the town is located of violation of state laws committed within the limits of the town.

### Article 5-2 PRESIDING OFFICER

#### 5-2-1 Town Magistrate

- 5-2-2 Assistance Town Magistrate
- 5-2-3 Powers and Duties

#### Section 5-2-1 Town Magistrate

- A.** The presiding officer of the magistrate court shall be the town magistrate, who shall be appointed by the council for a term of two (2) years. He shall receive such compensation as the council may from time to time direct by resolution.

**B.** The magistrate shall be subject to removal from office for good cause, but only after a hearing held after providing a minimum of ten (10) days written notice. The written notice to the magistrate shall also state the grounds for possible removal to provide a full opportunity to be heard on all alleged grounds of removal.

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

### Section 5-2-2 Assistant Town Magistrate

The office of assistant town magistrate is hereby created. The assistant town magistrate shall be appointed by and shall serve at the pleasure of the council for such term and for such salary as the council may determine. He shall perform the duties of the town magistrate in the absence of the town magistrate.

### Section 5-2-3 Powers and Duties

The powers and duties of the magistrate shall include:

**A.** The powers and duties set forth and conferred upon him under the provisions of the state constitution and statutes, this code and the ordinances and resolutions of the town.

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

#### 5-2-3 Magistrate Court 5-4

**C.** The responsibility for fixing and receiving all bonds and bails and receiving all finds, penalties, fees and other monies as provided by law.

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

**E.** Submitting a monthly report to the council summarizing court activities for that month.

**F.** Preparation of a schedule of traffic violations, not involving the death of a person, listing specific bails for each violation.

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

### Article 5-3 PROCEEDINGS of COURT

**A.** The court shall be open- for transaction of business on such days and during such hours as the council may from time to time direct by resolution or at such other times as the magistrate deems necessary to properly operate the court.

**B.** The proceedings shall be conducted in accordance with the State Constitution, the applicable state statutes and rules of the Arizona Supreme Court pertaining to police courts. The proceedings shall also be conducted in accordance with the rules the Arizona Supreme Court or legislature shall impose on said courts from time to time.

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

**D.** If the magistrate is satisfied that the offense' complained of has been committed by the person charged, he shall issue a summons or a warrant of arrest, Before issuing a summons or warrant of arrest on a complaint, the magistrate may subpoena and examine witnesses as to the truth of the complaint.

## Article 5-4 Hearing Officers in Civil Traffic Cases

The town council may appoint one or more hearing officers to preside over civil traffic violation cases when in its opinion the appointment of such hearing officers are necessary to assure prompt disposition of civil traffic violation *cases*. -Hearing officers may hear and. dispose of civil traffic violation cases under supervision of the presiding officer of the Superior Magistrate Court and their decisions are appeal-able to the Superior Court pursuant to Title 22, Chapter 2, Article 4, Arizona Revised Statutes.

### Chapter 6 Animal

## CHAPTER 6 ANIMALS

### ARTICLE 6-1 RULES AND REGULATIONS

- 6-1-1 Definitions
- 6-1-2 Enforcement of Chapter
- 6-1-3 Cruelty
- 6-1-4 Noises; Offensive odors; Limitation on Number of Dogs or Cats
- 6-1-5 Livestock
- 6-1-6 Dangerous Animals
- 6-1-7 Strays; Housing, Limitations
- 6-1-8 Swine Prohibited
- 6-1-9 Chickens, Ducks, Geese, Turkeys, Rabbits, Rodents and Pigeons
- 6-1-10 Destruction of Injured Dogs and Other Animals
- 6-1-11 Diseased Animals
- 6-1-12 Kennel and/or Cattery Unlawful within the Town; Exemptions
- 6-1-13 Exceptions, specially Zoned Areas for Livestock Conditions

#### Section 6-1-1 Definitions

In this chapter unless the context otherwise requires:

- A.** “Animal” within the provision of this chapter shall mean dogs, cats, livestock and any animal of a species that is susceptible to rabies, except man.
- B.** “Animal control authority” shall consist of the animal control officer, chief of police, the Pinal County enforcement agent or such other person designated by the Town Council.
- C.** “Animal control officer” means the person appointed or employed by the Town as its enforcement officer, the Pinal County enforcement agent or any member of the Town Police Department.
- D.** “Animal shelter” means any premises designated by action of the Town for the purpose of impounding and caring for all animals impounded pursuant to this chapter.
- E.** “At large” means off the premises of the owner, and being neither confined by an enclosure nor physically restrained by a leash.

- F.** “Cattery” means a residence, building, structure or other enclosed or controlled area in which a person keeps, harbors or maintains four (4) or more cats which are over four months of age.
- G.** “Exposed to rabies” means an animal if it has been bitten by, or been exposed to, any animal known to have been infected with rabies.
- H.** “Fowl” means chicken, cock, hen, duck, goose, peafowl, or other generally accepted domesticated commercial bird.  
6-1 Animals 6-1-4
- I.** “Kennel” means a residence, building, fenced, enclosed, controlled area, or structure in which a person keeps, harbors or maintains four (4) or more dogs which are over four months of age.
- J.** “Livestock” means neat animals, horses, sheep, goats, swine, mules, or asses.
- K.** “Owner” means any person, group of persons or corporations owning, keeping possessing, or maintaining, or harboring a dog or dogs or other animals.
- L.** “Restraint” means physically restrained by a leash.
- M.** “Stray dog” means any dog four months of age or older running at large that is not wearing a valid license tag.
- N.** “Vaccination” means the administration of an anti-rabies vaccine to animals by a veterinarian.
- O.** “Vicious animal” means any animal of the order carnivore that has a propensity to bite human beings without provocation, and has been declared so after a hearing before a justice of the peace or magistrate.

#### Sec. 6-1-2 Enforcement of Chapter

The provisions of this chapter shall be enforced by the animal control authority. The animal control authority is hereby empowered to file civil complaints in the name of the Town of Superior for collection of any monies due the Town under this chapter.

#### Sec. 6-1-3 Cruelty

It is unlawful for any person to cruelly treat any animal in the Town in any way. Any person who inhumanely beats, underfeeds, overloads or abandons any animal shall be deemed guilty of a violation of this section.

#### Sec. 6-1-4 Noises; Offensive Odors Limitation on Numbers...of Dogs or Cats

- A.** It is unlawful for any person to harbor, possess, maintain or keep any animal which disturbs the peace by loud noises at any time of the night or day or to possess, maintain or keep any animal or animals on any premises in a manner which results in offensive odors being emitted or an unsanitary condition being created or maintained.
- B.** Within the corporate limits of the Town, it shall be unlawful for any person to harbor, maintain, house or keep at any one time, more than three (3) dogs over four (4) months of age or more than three (3) cats which are over four (4) months of age.

6-1-5 Animals 6-1-9

#### Sec. 6-1-5 Livestock

- A. It is unlawful to permit any livestock within the Town limits unless authorized under this code.
- B. It is unlawful to picket or tie any animal in the streets of the Town for the purpose of grazing and feeding.

#### Sec. 6-1-6 Dangerous Animals

- A. It is unlawful to permit any dangerous, vicious animal of any kind to run at large within the Town. Exhibitions or parades of animals which are ferae naturae in the eyes of the law may be conducted only upon securing a permit from the chief of police.
- B. The members of the police department or the Town enforcement agent are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

#### Sec. 6-1-7 Stray; Housing, Limitations

- A. Any person who keeps or causes to be kept any horses, mules, cattle, burros, goats, sheep or other livestock or poultry shall keep such livestock or poultry in a pen or similar enclosure to prevent their roaming at large within the corporate limits of the Town. Any such livestock or poultry running at large shall be impounded as provided in this chapter.
- B. It is unlawful to cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome. Any residence, property or premises upon which animals are kept shall always be sanitary and free from offensive odors and subject to inspection and regulations.
- C. It is further unlawful to keep or maintain any animal described in Subsection A or any coop, house, stable, fowl—house, shed or other structure required under Subsection A within one hundred feet of the dwelling house of any person or persons.

#### Sec. 6-1-8 Swine Prohibited

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

#### Sec. 6-1-9 Chickens, Ducks, Geese, Turkeys, Rabbits, Rodents and Pigeons

- A. It is unlawful for any person to keep any chickens, ducks, geese, turkeys, rabbits, rodents or pigeons within the corporate limits of the Town unless they are securely housed or cooped so as to prevent them from being at large.

6-1-9 Animals 6-1-13

- B. It is unlawful to keep or maintain within one hundred (100) feet of the dwelling house of any person or persons within the Town any coop, house, stable, fowl—house, shed or other structure for the purpose of housing, keeping or caring for chickens, ducks, geese, turkeys, rabbits, rodents or pigeons.

#### Sec. 6-1-10 Destruction of Injured Dogs and Other Animals

Any licensed or unlicensed dog or other animal which, apparently, is suffering from serious injuries and is in great pain and probably would not recover, or which has evidence of any infectious disease which is a danger to other dogs or animals or to man, may be destroyed by the animal control officer in as humane a manner as possible after reasonable efforts to notify the owner have failed.

### Sec. 6-1-11 Diseased Animals

- A.** It is unlawful to allow any domestic animal afflicted with a contagious or infectious disease to run at large or to be exposed in any public place whereby the health of man or beast may be affected. It is unlawful for such diseased animal to be shipped or removed from the premises of the owner thereof, except under the supervision of the animal control officer.
- B.** It is hereby made the duty of the animal control officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in the cases where the state health department officer or the state veterinarian.

### Sec. 6-1-12 Kennel and/or Cattery Unlawful Within the City; Exemptions

- A.** It shall be unlawful and punishable as provided in this Code to operate, maintain, or establish a kennel or cattery (as **defined in 6-1-1**) within the corporate limits of the Town.
- B.** It shall be presumed that a person is operating, maintaining or establishing a kennel or cattery if he has present on the premises, at one time, four or more dogs over four months old or four or more cats over four months old.
- C.** Any person who has a current kennel permit issued by the Board of Supervisors pursuant to A.R.S. §24-367.01, on or before the effective date of this section, shall be allowed to continue with the operation of said kennel so long as the permit is not allowed to lapse. No such permit may be transferred or assigned to any other person within the corporate limits of the City.

### Sec. 6-1-13 Exceptions, Specially Zoned Areas for Livestock conditions

**A.** The foregoing provisions of this Chapter 6 notwithstanding, it shall be lawful to keep and maintain fowl, rodents, or livestock within certain districts established for such purposes by the Planning and Zoning Commission and the Mayor and Council of the Town or where a permit for such maintenance is issued by the Mayor and Council after public vote. If, however, livestock, rodents, and fowl are authorized to be maintained or kept within any district established pursuant to zoning regulation or by permit, the land on which said animals are kept or maintained shall not be less than one (1) acre and the authorization to keep and maintain said animals shall be specifically conditioned upon compliance in full with the following;

#### 6-1-13 Animals 6-2

- 1.** There shall be no more than two (2) horses and/or three (3) other head of livestock maintained on the property for the first one (1) acre of land and no more than two (2) additional head for each additional one -half (1/2) acre of land owned and operated by the person keeping and maintaining said livestock.
- 2.** No fowl, rodents, or livestock shall be cooped, stabled, or confined in any building within two hundred (200) feet from any residence, dining, or sleeping quarters which may be situated on adjacent land, and all such animals shall be kept in suitable enclosures and shall not be permitted to run at large
  - a.** All such enclosures shall be maintained in a sanitary condition.
  - b.** The Animal Control Authority may impose other rules and regulations by Council resolution which shall have the force and effect of law to insure proper sanitary conditions are maintained and to enforce the provisions of this Code. Any violations of any such rule or regulation, after receipt of notice of same, shall be considered a violation of this Code and punishable as such.
- 3.** All animals allowed to be maintained within a zoning district established by Planning and Zoning and the Mayor and Council or by permit shall be kept and maintained in such a manner as to not disturb the peace, comfort, and health of any other person residing in the Town. It shall be considered a violation of this section if offensive or fowl odors or noise are emitted beyond the property boundaries of the premises on which the animals are maintained.
- 4.** If newly annexed property is actually utilized for maintaining livestock at the time of annexation, such use may continue even if it is not located in an area zoned for such purpose. Such use may continue as a non-conforming use until the right to use same is

forfeited or abandoned by non-use for a period of one (1) year or as otherwise provided in the Zoning Ordinance.

## ARTICLE 6-2 IMPOUNDING GENERALLY

- 6-2-1 Scope of Article
- 6-2-2 Impounding of Animals at Large
- 6-2-3 Notice to Owners of Impoundment
- 6-2-4 Report of Impounded Animals
- 6-2-5 Conditions and Duration of Impoundment
- 6-2-6 Redemption of Impounded Animals
- 6-2-7 Sale of Unredeemed Animals
- 6-2-8 Impounding Fees
- 6-2-9 Impeding Animal Control Officer
- 6-2-10 Biting Animals
- 6-2-11 Contractual Agreement

6-2-1 Animals 6-2-6

### Sec. 6-2-1 Scope of Article

The provisions of this article shall apply to the impoundment of any and all animals, except dogs and cats. The provisions of Article 6-3 apply to the impoundment of dogs.

### Sec. 6-2-2 Impounding of Animals at Large

It shall be the duty of the animal control officer to impound all animals found at large, or not under the charge, care or control of some person in the streets, alleys or other public places or vacant or unenclosed lots in the Town.

### Sec. 6-2-3 Notice to Owners of Impoundment

If the owner of any impounded animal is known to the animal control officer and resides or has a known place of business in the Town, the animal control officer shall notify the owner of such animal personally or by letter through the post office within twenty-four hours after such animal has been taken up and impounded. The notice shall contain a description of the animal and shall state that unless reclaimed such animal will be sold at public auction to the highest bidder at the time and place specified in the notice. Copies of the notice shall be posted at the place of impoundment and at the Town Hall.

### Sec. 6-2-4 Report of Impounded Animals

The animal control officer shall, within twenty-four hours after taking and impounding any animal, make a report to the clerk stating the kind of animal and describing it by color, marks, or brands or otherwise and when the animal was taken up and impounded.

### Sec. 6-2-5 Conditions and Duration of Impoundment

The animal control officer shall keep all animals taken up and impounded in a safe, convenient and comfortable place within or conveniently near the Town limits and shall feed such animals at least once every twenty—four hours and treat them in a humane manner during the time they are impounded. The duration of impoundment shall not be less than three days, unless sooner claimed by the owner.

### Sec. 6-2-6 Redemption of Impounded Animals

If the owner of any animal applies to the animal control officer and -pays the fees and charges provided by this chapter within five days

after such animal has been taken up and impounded, the animal control officer shall deliver such animal to the owner.

6-2-7 Animals 6-2-11

### Sec. 6-2-7 Sale of Unredeemed Animals

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All animals, taken up and impounded under the provisions of this article which have not been claimed and for which the fees and charges have not been paid to the animal control officer by the owner within five days, shall at the time provided in the notice of sale be sold by the animal control officer at public auction at the place of impoundment to the highest cash bidder. The proceeds, after deducting therefrom the fees and charges, shall be paid to the owner of the animal if he appears and claims the same within thirty days after the sale, and if not, then the proceeds shall be paid into the general fund of the Town. The animal control officer shall execute a bill of sale in favor of the purchaser or such animal and upon payment of the amount bid shall deliver the bill of sale to the purchaser.

### Sec. 6-2-8 Impounding Fees

The animal control officer shall collect from the owner of animals taken up and impounded and duly claimed by the owner, before delivering any such animals, a sum to be determined by resolution of the Council for every animal so taken up, and additionally a sum to be determined by resolution of the Council for the care, watering and feeding of any impounded animal. All fees collected shall be paid into the general fund of the Town.

### Sec. 6-2-9 Impeding Animal Control Officer

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

### Sec. 6-2-10 Biting Animal

Whenever any animal bites a person, the person so bitten and the owner of the animal shall immediately notify the animal control officer, who shall cause an examination of the animal to be made by a duly licensed physician or a duly licensed veterinarian and shall order compliance with the provisions of Sec. 6-3-7 of this Chapter.

### Sec. 6-2-11 Contractual Agreement

Notwithstanding any provision of this article to the contrary, the Council may contract with the county or other governmental agency to enforce the provisions of this article in such manner as may be provided in the agreement.

6-3 Animals 6-3-2

## Article 6-3 DOGS

6-3-1 Definitions

6-3-2 Licenses and Tags Generally

- 6-3-3 Vaccination Required
- 6-3-4 Running at Large
- 6-3-5 Impoundment
- 6-3-6 Biting Dogs

### Section 6-3-1 Definitions

In this chapter unless the context requires otherwise:

- A.** “At large” means off the premises of the owner not under the control of the owner or other persons acting for the owner.
- B.** “Collar” means a band, chain, harness or suitable device worn around the neck of a dog to which a license may be affixed.
- C.** “Dog” means a member of the canis familiaris family.
- D.** “Dog violation citation” means a document issued by the enforcement agent or his duly authorized representative to a person who has violated the regulations of this chapter commanding that person to appear in the magistrate court on a day named or, if desired, to pay the fine by mail.
- E.** “Enforcement agent” means any person appointed by the council to enforce the provisions of this chapter.
- F.** “Owner” means any person, owning, keeping, possessing, harboring or maintaining a dog.
- G.** “Pound” means any establishment authorized by the town for the confinement, maintenance, safekeeping and control of dogs that come into the custody of the enforcement agent.
- H.** “Vaccination” means an anti-rabies vaccination using a type of vaccine approved by the state veterinarian.

### Sec. 6-3-2 Licenses and Tags Generally

- A.** All dogs kept, harbored or maintained in the town must be licensed and registered if over four months of age. Dog licenses shall be issued by the enforcement agent upon payment of a license fee. The license shall expire on the first day of January of each year. The owner shall state at the time application is made for such license his name and address and the name, breed, color and sex of each dog owned or kept by him.
- B.** If the license is not obtained by the owner during the month of January of any year, or within thirty days of the date of first possession of any dog, or of its becoming four months old, or within thirty days from the arrival of the dog in the town the license payment shall be deemed delinquent and a penalty shall be added to the license fee.
- C.** The fees provided by this section shall be determined by resolution of the council.  
6-3-2 Animals 6-3-3
- D.** A guide dog belonging to a blind person who is a resident of the state or any bona fide nonprofit organization which is in the business of breeding, raising or training dogs that are to be used for guiding the blind shall, upon application by the owner or organization to the town and on presentation of proper proof, be vaccinated and licensed pursuant to this article without payment of a fee.
- E.** Each dog licensed under the terms of this article shall receive, at the time of licensing, a tag on which shall be inscribed the name of the town, the number of the license and the year in which it expires. It shall be the duty of the owner to cause such tag to be securely attached to a collar or harness which shall be worn by the dog at all times. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a fee to the enforcement agent.
- F.** It is unlawful for any person to counterfeit or attempt to counterfeit an official dog tag or remove such tag from any dog for the purpose of willful and malicious mischief or place a dog tag upon a dog unless the tag was issued to that dog.
- G.** Whenever the ownership of a dog has been changed, the new owner must secure a transfer of license to such owner. A fee shall

be charged to transfer any license.

- H.** Dogs while being used for hunting or dogs while being exhibited at American Kennel Club approved shows or dogs while engaged in races approved by the Arizona Racing Commission and such dogs while being transported to and from such events need not wear a collar or harness with a valid license attached; provided, that they are properly vaccinated and licensed.
- I.** The enforcement agent shall apprehend and impound any dog found without a current valid license tag.

### Sec. 6-3-3 Vaccination Required

- A.** Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination and type, manufacturer and serial number of the vaccine and date revaccination is due. A duplicate of each rabies vaccination certificate issued shall be transmitted to the enforcement agent on or before the tenth day of the month following the month during which the dog was vaccinated. No dog shall be licensed unless it is vaccinated in accordance with the provisions of this article and the regulations promulgated hereunder.
- B.** A dog vaccinated in any other place prior to entry into the town may be licensed in the town provided that at the time of licensing, the owner of such dog presents a vaccination certificate, signed by a veterinarian licensed to practice in that place or a veterinarian employed by a governmental agency in that place, stating the owner's name and address and giving the dog's description, date of vaccination and type, manufacturer and serial number of the vaccine used. The vaccination must be in conformity with the provisions of this article and the regulations promulgated hereunder.
- C.** The town shall make provisions for low-cost vaccination clinics as deemed necessary. The vaccination shall be performed by a veterinarian.
- D.** If a dog is impounded and found to be unvaccinated, the enforcement agent is hereby authorized to cause such dog to be vaccinated at the pound at a cost to be borne by the owner. The vaccination shall be performed by a veterinarian, who shall issue a certificate of vaccination.

6-3-4 Animals 6-3-6

### Sec. 6-3-4 Running at Large

- A.** No person owning, keeping, possessing, harboring or maintaining a dog shall allow such dog to be at large. A dog is not deemed to be at large:
- 1.** While such dog is actively engaged in dog obedience training, accompanied by and under the control of his owner or trainer, if such dog is actually enrolled in or has graduated from a dog obedience training school which has been approved by the town enforcement agent.
  - 2.** While such dog is being used for hunting purposes.
  - 3.** While such dog is being exhibited at an American Kennel Club approved show.
  - 4.** While such dog is engaged in races approved by the Arizona Racing Commission.
- B.** The enforcement agent shall apprehend and impound any dog running at large contrary to the provisions of this section.

### Sec. 6-3-5 Impoundment

- A.** Each unlicensed dog impounded shall be kept and maintained at the pound for a minimum of five days. At the expiration of the impoundment period, anyone may claim the dog; provided, that such person pays all established pound fees and complies with the licensing provisions of this article within seventy-two hours. If no person claims the dog, the enforcement agent may dispose of the dog in a humane manner.
- B.** Impoundment costs shall include an assessment for each time a dog is impounded and the actual cost incurred for each day the

enforcement agent cares for and feeds the dog.

### Sec. 6-3-6 Biting Dogs

**A.** Whenever a dog bites any person the incident shall be reported to the enforcement agent immediately by any person having direct knowledge.

**B.** Any dog that bites any person shall be quarantined and impounded or, at the request of and at the expense of the owner, placed in a veterinary hospital for a period of not less than seven days. The owner of any dog that has bitten a person may voluntarily deliver the dog to the enforcement agent at the pound; otherwise, there shall be an assessment against the owner if the enforcement agent must pick up the dog. If the dog is impounded in the pound for observation as a result of a dog bite incident, there shall be a per day charge for board, and any other expenses incurred during the quarantine or impoundment shall be paid by the owner.

**C.** If it is determined that the dog is infected with rabies or other dangerous, contagious and infectious disease, it shall be the duty of the enforcement agent to destroy such dog in as humane a manner as is reasonably possible. If at the end of the quarantine or impoundment, a veterinarian is convinced that the dog is free from such diseases, the dog shall be released. If the dog dies during the period of quarantine or impoundment, its head shall be sent to the laboratory at the department of health services for examination.

6-4 Animals 6-4-4

## Article 6-4 CITATION OF OWNERS

- 6-4-1 Running at Large
- 6-4-2 Citation Issued to Owners
- 6-4-3 Payment of Citation
- 6-4-4 Filing of Citation
- 6-4-5 Records of Citations
- 6-4-6 Right to Impound Dogs Not Superseded

### Sec. 6-4-1 Running at Large

It is unlawful for any owner or custodian of any dog to permit the dog to run loose or to be at large within the corporate limits of the city upon any public street, highway or public place or upon private property owned by a person other than the owner or custodian of the dog.

### Sec. 6-4-2 Citation Issued to Owners

Whenever any person is in violation of the provisions of this chapter, the enforcement agent, his duly authorized representative or any police officer may hand deliver or mail to the last known mailing address of such person a dog violation citation. Such citation shall be approved as to form by the town attorney and the magistrate court. The citation shall advise the person of the specific violation with which he is charged and of the time and place of such violation. A copy of such notice shall be sent to the clerk by the enforcement agent.

### Sec. 6-4-3 Payment of Citation

**A.** Payment of citation may be made, within ten days of the issuance of the citation, by mailing or by presenting to the office of the clerk a copy of the citation and the amount of the fine for such violation. The fines for violating the provisions of this chapter shall be adopted from time to time by resolution of the council<sub>1</sub>

**B.** Any person charged with a violation of this chapter has the right to appear in the magistrate's court and contest the charge.

- C. If the person pays the fine he shall be given or mailed a receipt therefore and the citation shall not be filed in court.

#### Sec. 6-4-4 Filing of Citation

If the person does not pay such penalty or if such person requests that the matter go to court, the town clerk shall file the citation in the magistrate court.

6-4-5 Animals 6-4-6

#### Sec. 6-4-5 Records of Citations

Citations filed with the clerk by the enforcement agent and not filed in the magistrate court shall be kept on file in the clerk's office for at least one year.

#### Sec. 6-4-6 Right to Impound Dogs Not Superseded

The provisions of this article shall not supersede the town's right to impound dogs as provided in **Section 6-3-5**.

## Chapter 7 Building and Safety Code

## CHAPTER 7 Building and Safety Code

ARTICLE 7-1 BUILDING CODE

- 7-1-1 Adoption of Uniform Building Codes
- 7-1-2 Rules and Definitions
- 7-1-3 Local Amendments to Uniform Codes

Sec. 7-1-1 Adoption of Uniform Building Codes

**A.** The following uniform codes are hereby adopted as the building safety code for the Town of Superior. Any reference to “Uniform Code” herein includes all codes listed herein.

- 1.** Uniform Building Code (1997 Edition) together with its supplements, if any, published by the International Conference of Building Officials, together with the following appendices to said Uniform Building code:
  - (a) Ch. 1 - Life Safety Requirements for Existing Buildings Other Than High Rise Buildings;
  - (b) Ch. 10- Detention and Correctional Facilities;
  - (c) Ch. 11 - Agricultural Buildings;
  - (d) Ch. 12 - Div. II - Requirements for Group R, Div. 4 Occupancies;
  - (e) Ch. 12- Div. III - Barriers for Swimming Pools, Spas and Hot tubs;
  - (f) Ch. 23, Div. I - Snow Load Design;
  - (g) Ch. 23, Div IV- Flood Resistant Construction;
  - (h) Ch. 29 - Waterproofing & Damp proofing Foundations;
  - (i) Ch. 31, Div. I - Site Accessibility;
  - (j) Ch. 31, Div IF - Accessibility for Existing Buildings;
  - (k) Ch. 49 - Patio Covers;
  - (l) Ch. 70 - Excavation and Grading.
- 2.** Uniform Mechanical Code (1997 Edition), together with its supplements, if any, published by the International Conference of Building Officials.
- 3.** Uniform Housing Code (1997 Edition), together with its supplements, if any, published by the International Conference of Building Officials.
- 4.** Uniform Code for the Abatement of Dangerous Buildings (1997 Edition), together with its supplements, if any, published by International Conference of Building Officials.
- 5.** State Plumbing Code adopted by rule pursuant to A.R.S. §41-619 and amendments thereto.
- 6.** National Electrical Code (1996 Edition), together with its supplements, if any, published by National Fire Protection Association, Inc.
- 7.** Uniform Fire Code (1 997 Edition), copyrighted by the International Conference of Building Official and Western Fire Chiefs Association.

## 7-1-1 Building Safety Code 7-1-3

8. Guidelines for Manufactured Housing (1997 Edition), together with its supplements, if any, published by the Arizona Secretary of State.
9. City of Mesa Adobe Code (Latest Edition).
10. Uniform Administrative Code (1997 Edition), together with its supplements, if any, published by International Conference of Building Officials.

**B.** This Chapter 7 shall be known as the Building Safety Code of the Town of Superior. Each of the Uniform Codes described in this article are hereby incorporated by this reference and made a part of this chapter as if fully set forth herein. At least three (3) copies of said codes shall be filed in the office of the Town Clerk and made available for public use and inspection.

### Sec. 7-1-2 Rules and Definitions

**A.** The following terms utilized in this Chapter shall be defined as provided in the uniform codes adopted pursuant to **Article 7-1-1** of this Chapter, except as hereinafter provided:

1. The terms “Governing Body” or “City” or “Town” or “Municipality” as used in the Uniform Codes shall mean the incorporated area of the Town of Superior.
2. The terms “Mayor”, “Appointing Authority”, “Commission” “Town Council” or “Manager” as used in the Uniform Codes shall mean the Mayor and Council of the Town of Superior.
3. The terms “Administrative Authority”, “Building Officials”, “Chief”, or “Administrator”, as used in the Uniform Codes, shall mean the Building Inspector of the Town of Superior or other person designated or authorized by the Town Manager, including building officials of other political subdivisions operating pursuant to approved intergovernmental agreement.
4. The terms “Other Code” or “Other Codes” as used in the Uniform Codes shall mean other code or codes adopted by the Town of Superior or the State of Arizona, if applicable. If there should be a conflict between any such code, the more restrictive shall prevail.

### Sec. 7-1-3 Local Amendments to Uniform Code

**A.** To provide for the establishment of standards which are particularly suited to construction of residential, commercial and industrial properties within the Town, the provisions of this section are adopted as amendments to the Uniform Code. Should there be a conflict between the provisions of the Uniform Code and these amendments, these amendments shall control and be fully enforceable as other provisions of the Uniform Codes are enforceable.

1. The following amendments are made to the Uniform Building Code, adopted by reference in **Section 7-1-1 (A)(1)** of this chapter;
  - a. Section 106, “Permits issuance”, Subsection 106.44, “Expiration”, is amended as follows: Strike “work is commenced” and insert in lieu thereof “...approval of the last required inspection...”

## 7-1-3 Building Safety Code 7-1-3

- b. Section 107, “Fees”, Subsection 107.2, “Permit Fees”, Paragraph 2 is amended by the following addition after the last sentence: “For the purposes of determining valuations as defined by Section 223 of the Uniform Building Code, 1997 Edition, the most current building valuation data as published by the International Conference of Building Officials

In Building Standards magazine, as such data is published from time to time, shall be used. The valuation for any shell-only buildings may be reduced by 20 percent. The valuation for any foundation-only permit may be reduced by 75 percent. The foundation only permit may include the foundation, interior underground utilities and any interior slab work when so specified.”

c. The last sentence in the first paragraph of Subsection 107.3, “Plan Review Fees”, of Section 107, “Fees”, is hereby amended to read as follows:

“Said plan review fee shall be 65 percent of the permit fee as shown in Table 1-A. When a plan review for compliance with the Fire Code is required, a plan review fee of 35 percent of the previously stated 65 percent plan review fee shall be charged. In no case shall any plan review fee be less than \$25.00.”

d. Section 109, “Certificate of Occupancy”, Subsection 109.1, entitled “Use and Occupancy”, is amended to read as follows:

“Buildings or structures shall not be used, occupied, or furnished in whole or in part, nor shall a change in the existing occupancy classification of a building or structure or portion thereof be made until the building official has issued a certificate of occupancy therefore as provided herein.

**EXCEPTION: Group U Occupancies:**

Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid,”

e. The following fee schedule is adopted at the time of adoption of this code section. However, the Mayor and Council may modify same by resolution and the provisions of said resolution shall thereafter control. To the extent the following fees are inconsistent with those established in the 1997 Uniform Building Code, the following fees shall supersede those such fees established in the 1997 Uniform Building Code. Unless otherwise indicated, the following fees will be applicable to residential and non-residential projects.”

**Swimming Pools**

Above Ground	\$ 50.00*
In Ground	\$125.00*

**Spas/Hot Tubs** \$ 50.00\*

\*When standard pool/spa/hot tub plans are not on file with the Building official, a \$25.00 plan review fee will also be charged.

7-1-1 Building Safety Code 7-2

**Re-Roof (One-and Two-Dwelling Structures Only)**

Shingles - overlay	\$ 25.00
Shingles and sheathing	\$ 50.00
Tile and sheathing	\$ 50.00

Other types of roofs shall be based on valuation of the project.

**Vacuum Breaker (For residential landscape irrigation systems only)**

1 through 5 devices	\$ 25.00*
Over 5, each additional	\$ 2.00*

\* Includes only the electrical devices required to operate the system. An additional \$20.00 fee shall be charged for electrical work installed for low-voltage landscape lighting when issued in conjunction with a vacuum breaker permit.

**Building Demolition**

Residential accessory building or garage	\$ 25.00
Single-family residence	\$ 50.00
Structures other than residential single-family	\$100.00

**Temporary Trailers**

Temporary construction trailer

Building permit	\$150.00	Plan Review	\$ 25.00
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Temporary sales trailer

Building permit	\$ 50.00	Plan Review	\$ 50.00
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Generators for Temporary Trailers (Each) \$ 25.00

**Mobile Home Hook Up** (includes sewer, water and electrical) \$ 50.00

**Permits for Residential (R-3) Accessory Buildings**, including but not limited to, detached garages, carports, storage sheds over 120 square feet, patio covers and gazebos, shall be charged a building permit fee based on the 1997 Uniform Building Code and a plan review fee of \$25.00.

ARTICLE 7-2-1 ADMINISTRATION

- 7-2-1 Permit or License
- 7-2-2 Building Inspector
- 7-2-3 Adopting Rules or Regulations

7-2-1 Building Safety Code 7-3-1

Sec. 7-2-1 Permit or License

All department officials and public employees of the Town of Superior vested with the duty or authority to issue permits or licenses shall comply with the provisions of this Chapter and the Uniform Codes adopted herein. No permit or license for any use, building or purpose shall be issued in conflict with the provisions of this Chapter. Any permit or license issued in conflict with the provisions of this Chapter shall be null and void and of no effect whatsoever.

Sec. 7-2-2 Building Official

The Building Inspector for the Town of Superior shall be the building official authorized to enforce all the provisions of this Chapter and shall be appointed by the Town Manager. In the absence of such appointment, the Town Manager may himself, or by appointment, authorize other Town Officials or employees or the building departments of other political subdivisions to enforce the provisions of this chapter and the Uniform Codes adopted herein. Any reference to "Building Official" herein shall include any such authorized person.

Sec. 7-2-3 Adopting Rules and Regulations

The Building Official shall adopt rules and regulations, subject to the approval of the Mayor and Council, in the interest or public safety, health and general welfare, to implement the provisions of this Chapter and to secure the intent thereof. No such rules shall have the effect of waiving technical provisions specifically provided in the Uniform Codes or of violating accepted engineering practice involving public safety.

## ARTICLE 7-3 BUILDING PERMITS

- 7-3-1 Issuance of Permits
- 7-3-2 Record Keeping
- 7-3-3 Fees-Modification by Resolution

### Section 7-3-1 Issuance of Permits

Building permits shall be issued only upon approval of submitted plans and specifications.

A. With each application for a building permit, and also when otherwise required by the Building Official for enforcement of any provision of this Chapter, two (2) sets of specifications and plans shall be submitted. The Building Official may, where the complexity of the plans clearly warrant, require plans and specifications to be prepared and designed by an engineer or architect licensed by the State to practice as such. He may further require that plans for new construction to indicate existing and finished grade elevations based on Town data with existing and finished drainage flow patterns in areas subject to flooding.

7-3-2 Building Safety Code 7-7

### Sec. 7-3-2 Record Keeping

The Building Official shall keep careful and comprehensive records of applications for permits, of permits issued, of inspections made, of reports rendered and of notices or orders issued. Further, the Building Official shall retain on file copies of all papers in connection with building work for such time as may be required by law.

### Sec. 7-3-3 Fees-Modification by Resolution

Unless otherwise specifically provided in this chapter, all fees charged by the Town shall be as computed under the rules and guidelines set forth in the Uniform Codes adopted pursuant to this Chapter. However, the Mayor and Council may, from time to time, adopt or modify any such fees or applicable rules or regulations by resolution which shall have the full force and effect of law upon passage and posting.

### Article 7-4 Plumbing Code

That certain code entitled "Uniform Plumbing Code", 1985 Edition, copyrighted by the International Association of Plumbing and Mechanical Officials, is hereby adopted as the "Uniform Plumbing Code for the Town of Superior" and made a part of this chapter as though said code was specifically set forth in full herein; and at least three copies of said code shall be filed in the office of the clerk and kept available for public use and inspection.

### Article 7-5 UNIFORM FIRE CODE

That certain code entitled "Uniform Fire Code", 1985 Edition, copyrighted by the International Conference of Building Officials and the Western Fire Chiefs Association is hereby adopted as the "Fire Code of the Town of Superior" and made a part of this chapter as though said code was specifically set forth in full herein; and at least three copies of said code shall be filed in the office of the clerk and kept available for public use and inspection.

## Article 7-6 UNIFORM CODE FOR THE ABATTEMENT OF DANGEROUS BUILDINGS

That certain code entitled the “Uniform Code for the Abatement of Dangerous Buildings”, 1985 Edition, copyrighted by the International Conference of Building Officials, is hereby adopted as the “Uniform Code for the Abatement of Dangerous Buildings for the Town of Superior” and made a part of this chapter as though said code was specifically set for in full herein; and at least three copies of said code shall be filed in the office of the clerk and kept available for public use and inspection.

## Article 7-7 BUILDING OFFICIAL

The building official and administrative authority as such may be referenced in any section of this chapter for all matters pertaining to any building, plumbing, electrical or other inspections, shall be vested in the office of the clerk, provided that the council may authorize such deputies as may be needed to perform any inspection work or other functions that may be required by this chapter.

7-7-1 Building Safety Code 7-7-3

### Sec. 7-7-1 STATUTORY AUTHORIZATION

Legislature of the State of Arizona has in A.R.S. S 48—3609 enabled the Town to adopt regulations in conformance with A.R.S. S 48-3604 designated to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of the Town of Superior, Arizona does ordain as follows:

### Sec. 7-7-2 FINDINGS OF FACT

- A.** The flood hazard areas of Superior are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B.** These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

### Sec. 7-7-3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A.** To protect human life and health;
- B.** To minimize expenditure of public money for costly flood control projects;
- C.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D.** To minimize prolonged business interruptions;
- E.** To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F.** To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G.** To insure that potential buyers are notified that property is in an area of special flood hazard;
- H.** To insure that those who occupy the areas of special flood hazard assume responsibility for their actions and
- I.** To maintain eligibility for State disaster relief.

## 7-7-4 Building Safety Code 7-7-5

Sec. 7-7-4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Sec. 7-7-5 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

1. **“Appeal”** means a request for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance or a request for a variance.
2. **“Area of shallow flooding”** means a designated AD zone on the Flood Insurance Rate Map (FIRM). The base flood depths, range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and undeterminate; and, velocity flow may be evident.
3. **“Base flood”** means the flood having a one percent chance of being equaled or exceeded in any given year.
4. **“Breakaway Wall”** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building supporting foundation system.
5. **“Critical Feature”** means an integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be compromised.
6. **“Development”** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
7. **“Financial Assistance”** means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect. Federal assistance, other than general or special revenue sharing or formula grants made to States.

## 7-7-5 Building Safety Code 7-7-5

8. **“Flood or flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas

from (1) the overflow of flood waters, (2) the unusual and rapid accumulation of runoff of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

9. **“Flood Boundary Floodway Map”** means the official map on which the Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.
  10. **“Flood Insurance Rate Map (FIRM)”** means the official map on which the Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
  11. **“Flood Insurance Study”** means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.
  12. **“Floodplain or flood-prone area”** means any land area susceptible to being inundated by water from any source (see definition of “flooding”).
  13. **“Floodplain administrator”** means the Town Manager of the Town of Superior, who is hereby authorized by the Floodplain Board to administer the provisions of this ordinance.
  14. **“Floodplain Board”** means the Board of Directors of the Flood Control District of Pinal County at such times as they are engaged in the enforcement of this ordinance.
  15. **“Floodplain Board”** means the Town Council of the Town of Superior at such times as they are engaged in the enforcement of this ordinance.
  16. **“Floodplain management”** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to ‘emergency preparedness plans, flood control works and floodplain management regulations.
  17. **“Floodplain management regulations”** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
  18. **“Flood protection system”** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- 7-7-5 Building Safety Code 7-7-5
19. **“Flood proofing”** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
  20. **“Flood-related erosion”** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
  21. **“Floodway”** means the channel of a river or other watercourse and the adjacent land areas necessary in order to discharge the one hundred-year flood without cumulatively increasing the water surface elevation.
  22. **“Functionally dependent use”** means a use which cannot perform its intended purpose unless it is located or carried out in

close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**23. “Highest adjacent grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**24. “Levee”** means a man-made structure, usually an earthen embankment, designated and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**25. “Levee System”** means a flood protection system which consists of a levee, or levees, and associated -structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**26. “Lowest floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floors provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**27. “Manufactured home”** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term ‘manufactured home’ also includes park trailers, travel trailers and other similar vehicles, placed on a site for greater than 180 consecutive days.

**28. “Manufactured home park or subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

**29. “Mean sea level”** means, for purposes of the National Insurance Program the, National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

#### 7-7-5 Building Safety Code 7-7-5

**30. “New construction”** means, for floodplain management purposes, structures for which the ‘start of construction’: commenced on or after the effective date of a floodplain management regulation adopted by a community.

**31. “Person”** means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

**32. “Program”** means the National Flood Insurance Program authorized by 42 U.S.C. 4001-4128.

**33. “Program deficiency”** means a defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards.

**34. “Regulatory flood elevation”** means an elevation one foot above the base flood elevation.

**35. “Remedy a Violation”** means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**36. “Riverine”** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**37. “Special flood hazard area”** means an area having special flood or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AD, AI-30, AE, A99 or AN.

**38. “Start of Construction”** includes substantial improvement, and means the date the building permit was issued, provided the

actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**39. Is not in booklet**

**40. “Structure”** means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**41. “Substantial improvement”** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition ‘substantial improvement’ is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term

7-7-5 Building Safety Code 7-7-9

does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code ‘specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**42. “Variance”** means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

**43. “Violation”** means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

### Sec. 7-7-6 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the corporate limits of the Town of Superior.

### Sec. 7-7-7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The area of special flood hazard identified by the Federal Insurance Administration (P’IA) in a scientific and engineering report entitled “The Flood Insurance Study for the Town of Superior’ with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Town Hall, 734 Main Street, Superior, Arizona. The Flood Insurance Study is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Floodplain Board by the Floodplain Administrator.

### Sec. 7-7-8 COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

### Sec. 7-7-9 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent

restrictions shall prevail.

#### 7-7-10 Building Safety Code 7-7-15

### Sec. 7-7-10 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body and,
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

### Sec. 7-7-11 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Superior, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there-under.

### Sec. 7-7-12 STATUTORY EXEMPTIONS

- A. In accordance with A.R.S. S 48—3609, nothing in this ordinance shall:
  - 1. Affect existing uses of property or the right to continuation of the use under conditions which existed on the effective date of this ordinance.
  - 2. Affect repair or alteration of property for the purposes for which such property was used on the effective date of this ordinance; providing such repair or alteration does not exceed 50 percent of the value of the property prior to the repair or alteration; and provided the repair or alteration does not decrease the carrying capacity of the watercourse.
  - 3. Affect or apply to facilities constructed or installed pursuant to a certificate of environmental compatibility issued under the authority of Title 40, Chapter 2, Article 6.2.
- B. In accordance with A.R.S. S 48a3613, written authorization shall not be required, nor shall the section 1316 of the National Flood Insurance Act of 1968 as amended.

### Sec. 7-7-15 UNLAWFUL ACTS

- A. It is unlawful for any person to divert, retard or obstruct the flow of waters in any watercourse whenever it creates a hazard to life or property without securing the written authorization of the Floodplain Board.
- B. Any person violating the provisions of this section shall be guilty of a class 2 misdemeanor.

**Sec. 7-7-16 SEVERABILITY**

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

**Sec. 7-7-17 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for Development Permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and~ the location of the foregoing. Specifically, the following information is required:

- A.** Proposed elevation in relation to mean sea level, of the lowest habitable floor (including basement) of all structures, in Zone AO, elevation of existing grade and proposed elevation of lowest habitable floor of all structures.
- B.** Proposed elevation in relation to mean sea level to which any structure will be flood-proofed;
- C.** Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 5.1.C.3; and,
- D.** Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**Sec. 7-7-18 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Floodplain Administrator shall include, but not be limited to:

- A.** Review all development permits to determine that:
  - 1.** The permit requirements of this ordinance have been satisfied;
  - 2.** All other required state and federal permits have been obtained;
  - 3.** The site is reasonably safe from flooding.
  - 4.** The proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot any point.
- B.** Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 3.2, the floodplain Administrator shall obtain, review, and reasonably utilize any base flood

elevation data available from a Federal, State or other source, in order to administer Section 5.0. Any such information shall be submitted to the floodplain Board for adoption.

- C.** Obtain and maintain for public inspection and make available as needed for Flood Insurance Policies:
  - 1.** The certified elevation required in Section 5.1.C.1;
  - 2.** The certification required in Section 5.1.C.2;

3. The flood-proofing certification required in Section 5.1.C.3; and

4. The certified elevation required in Section 54.B.

**D.** Whenever a watercourse is to be altered or relocated:

1. Notify adjacent communities and the Arizona Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
2. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

**E.** Within one hundred twenty days after completion of construction of any flood control protective works which changes the rate of flow during the flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the director of water resources.

**F.** Advise the Flood Control District of Pinal County and any adjunct jurisdiction having responsibility for floodplain management in writing and provide a copy of development, plan of all applications for floodplain use permits or variances to develop land in a floodplain or floodway within one mile of the corporate limits of the Town of Superior. Also, advise the Flood Control District of Pinal County in writing and provide a copy of any development plan of any major development proposed within a floodplain or floodway which could affect floodplains, floodways or watercourses within the District's area of jurisdiction. Written notice and a copy of the plan of development shall be sent to the District no later than three working days after having been received by the District.

**G.** Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 6.0.

**H.** Take actions on violations of this ordinance as required in Section 39 herein.

7-7-19 Building Safety Code 7-7-19

## Sec. 7-7-19 STANDARDS OF CONSTRUCTION

### **A. Anchoring**

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All manufactured homes shall meet the anchoring standards of Section 5.5.A.

### **B. Construction Materials and Methods**

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be 'constructed using methods and practices that minimize flood damage.

### **C. Elevation and Flood-proofing**

1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or

above the regulatory flood elevation. Nonresidential structures may meet the standards in Section 5.1.C.3. Upon the completion of the structure and elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor and provided to the Flood-plain Administrator.

**2.** New construction and substantial improvement of any structure in Zone AO shall have the lowest floor, including basement, higher than the highest adjacent grade at least one foot higher than the depth number on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the standards in Section 5.1.C. Upon completion of the structure a registered professional engineer shall certify to the Floodplain Administrator that the elevation of the structure meets this standard.

**3.** Nonresidential construction shall either be elevated in conformance with Section 5.1.C.1. or 2. or together with attendant utility and sanitary facilities:

- a.** Be flood-proofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b.** Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c.** Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.

**4.** Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed, to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed

#### 7-7-19 Building Safety Code 7-7-22

the following minimum criteria: A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**5.** Manufactured homes shall meet the above standards and also the standards in Section 5.5.

### Sec. 7-7-20 STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT

- A.** The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
- B.** Storage of other materials or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

### Sec. 7-7-21 STANDARDS FOR UTILITIES

- A.** All new and replacement water supply and sanitary sewage systems shall, be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- B.** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- C.** Waste disposal systems shall not be installed wholly or partially in a floodway.

### Sec. 7-7-22 STANDARDS FOR SUBDIVISIONS

- A.** All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- B.** All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
- C.** All subdivision proposals shall be consistent with the need to minimize flood damage. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

7-7-23 Building Safety Code 7-7-25

**Sec. 7-7-23 STANDARDS OF MANUFACTURED HOMES**

All new and replacement manufactured homes and additions to manufactured homes shall:

- A.** Be elevated so that the bottom of the structural frame or the lowest point of any attached ‘appliances, whichever is lower, is at the regulatory flood elevation; and
- B.** Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

**Sec. 7-7-24 FLOODWAYS**

Located within the areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A.** Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B.** If Sections 5.6-1 and 5.6-2 are satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 5.

**Sec. 7-7-25 APPEAL BOARD**

- A.** The Floodplain Board of the Town of Superior shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- B.** The Floodplain Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- C.** In passing upon such applications, the Floodplain Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - 1.** The danger that materials may be swept onto other lands to the injury of others;
  - 2.** The danger of life and property due to flooding or erosion damage;
  - 3.** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual

owner;

4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;

7-7-25 Building Safety Code 7-7-26

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use comprehensive plan and floodplain management for that area;
9. The safety of access to the property in flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
11. The costs of providing governmental services during the after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

**D.** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 6.1.D.1. through 11 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

**E.** Upon consideration of the factors of Section 6.1-4 and the purposes of this ordinance, the Floodplain Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

**F.** The Flood-plain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

**Sec. 7-7-26 CONDITIONS FOR VARIANCES**

**A.** Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

**B.** Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

**C.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**D.** Variances shall only be issued upon;

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

7-7-26 Building Safety Code 7-7-26

3. A determination that the granting of variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense; create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances.

**E.** Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a



8-1-6 Permission Required for Selling on Streets or Sidewalks

8-4-7 Signs to be Observed

8-1-8 Exemptions

8-1-9 Fees

### Sec. 8-1-1 Registration Required

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

### Sec. 8-1-2 Application to Police Chief

**A.** Applicants for police registration under the terms of Section 8-1-1 shall be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicant's registration card and the other to be retained by the police department. The chief of police may require the applicant to file his fingerprint identification with the police department.

**B.** Such applicants for police registration shall be required to furnish to the police department a complete description of the product to be sold in the town, together with information regarding sales methods to be used and references that will enable the chief of police to determine whether or not such applicant is qualified to receive a registration card as provided in Section 8-1-3. Investigation by the chief of police under the provisions of this article shall be completed within fifteen days after the applicant has provided the required information.

### Sec. 8-1-3 Issuance of Registration Cards

Registration cards under this article shall be given without charge to all applicants who have complied with Section 8-1-2, unless the chief of police determines in his discretion that such applicant is not a proper person to be permitted to go from house to house because of any of the following reasons:

(1) he has a /criminal record,

(2) he is associated with a company that has engaged in fraudulent dealings, or

(3) the proposed sales proposition includes some element of trickery, fraud or deceit, in which case, in the interest of public safety and protection, the applicant shall not be registered.

### Sec. 8-1-4 Revocation of Registration Cards

Registration cards under this article may be revoked by the town at any time if deemed necessary in the interest of public safety and protection.

8-1-5 Business 8-1-9

### Sec. 8-1-5 Peddling Without Registration Cards Prohibited

It is unlawful for any person to take part in the act of soliciting, peddling, hawking, selling or vending of goods, wares, merchandise, newspaper, magazines or services from house to house or to only one house in the town without having registered with the police department and obtained a registration card; without having such card in his possession; or failing to exhibit such card when request is made for the registration card by any resident of the town.

### Sec. 8-1-6 Registration Required for Selling on Streets or Sidewalks

It is unlawful for any person to erect or maintain any booth, stand or counter on any sidewalk in the town for the purpose of barter, sale or trade or to keep or maintain upon the streets or alleys any wagon, cart, vehicle, movable booth or stand for the purpose of barter or trade without first obtaining a registration card under the provisions of this Chapter.

### Sec. 8-1-7 Signs to be Observed

It is unlawful for any peddler, solicitor or canvasser in the course of his business to ring the doorbell or knock at any building whereon a

sign bearing the words “no peddlers, solicitors or canvassers” is exposed to public view.

### Sec. 8-1-8 Exemptions

- A. Newsboys are exempt from the provisions of this article for the sale and delivery of newspaper subscriptions.
- B. Nonprofit, charitable or religious organizations may apply to the council for an exemption from this article.

### Sec. 8-1-9 Business fees Required

The registration card required under this Article is not a substitute for the business license required in Article 6-2 of this chapter.

8-2 Business 8-2-3

## ARTICLE 8-2 BUSINESS LICENSE TAX

- 8-2-1 License Required
- 8-2-2 Issuance of License
- 8-2-3 Payment
- 8-2-4 Posting of License
- 8-2-5 Exhibition of License Required
- 8-2-6 License Not Transferable
- 8-2-7 Exemption
- 8-2-8 Business License Fees

### Sec. 8-2-1 License Required

- A. It is unlawful for any person to carry on any trade, calling, profession, occupation or business in this town without having procured a license from the Town of Superior and complying with any and all regulations of such trade, calling, profession, business or occupation specified in this article.
- B. Those persons who are required to obtain a registration card under the provisions of Article 8-2 shall also be required to obtain a business license under this Article prior to conducting any business.

### Sec. 8-2-2 Issuance of License

- A. It shall be the duty of the clerk to prepare and to issue a license under this article for every person, firm, company or corporation liable to pay a license hereunder and to state in each license the amount thereof, the period of time covered, the name of the person, firm or corporation for whom issued, the trade, calling, profession, occupation or business licensed and the location or place of business of said trade, calling, profession, occupation or business.

**B.** In no case shall any mistake of the clerk in stating the amount or term of a license prevent or prejudice the collection for the town of what shall be actually due from anyone carrying on a trade, calling, profession, occupation or business, subject to license under this article.

### Sec. 8-2-3 Payment

**A.** All business license taxes shall be paid in advance at the office of the clerk or in such a manner as may be specified by the clerk. For those persons, firms, company or corporations liable for such tax and continuing in business on June 30th, the payment of the annual license tax is due on or before the 30th day of June of each year. Those commencing a covered business activity, occupation, profession, trade or calling between June 30th and July 1st of the next succeeding year shall be required to pay the annual license fee before the first day of conducting business.

**B.** A separate license must be obtained for each branch establishment or separate place of business in which any trade, calling, profession, occupation or business is carried on. Each license shall authorize the person obtaining such license to carry on, pursue or conduct only that trade, calling, profession, occupation or business described in such license and only at the location or place of business which is indicated.

#### 8-2-3 Business 8-2-7

**C.** If any one person is engaged in more than one business in the same location for which license fees are provided in this article, he shall pay the highest fee which is established for any of the businesses in which he is engaged at such location.

**D.** In addition to all other possible penalties for violation of this code, any person who fails to obtain a required license in a timely manner shall also pay a penalty of ten (10%) per cent of the license fee, which shall be in addition to the regular fee for such business.

### Sec. 8-2-4 Posting of License

**A.** Every person, firm, company or corporation having a license under the provisions of this article and carrying on a trade, calling, profession, occupation or business at a fixed place of business shall keep such license posted and exhibited, while in force, in some conspicuous part of the place of business.

**B.** Every person having such a license and not having a fixed place of business shall carry such license with him at all times while carrying on that trade, calling, profession, occupation or business for which the same was granted.

**C.** Every person, firm, company or corporation having a license under the provisions of this article shall produce and exhibit the same when applying for a renewal thereof and whenever requested to do so by any police officer or by any other officer authorized to issue, inspect or collect licenses.

### Sec. 8-2-5 Exhibition Of License Required

**A.** The chief of police shall have and exercise the power to make arrests and to cause complaints to be filed against all persons violating the provisions of this article.

**B.** The chief of police or any duly authorized official shall have the power to enter free of charge at any time any place of business for which a license is required by this article, and to demand the exhibition of such license for the current term, from any person engaged or employed in the transaction of any such business. It is unlawful for such person to fail to exhibit such license when requested to do so.

### Sec. 8-2-6 License Not Transferable

No license granted or issued under the provisions of this article shall be in any manner assignable or transferable to any other person, firm, company or corporation, other than is therein mentioned or named, without permission from the council.

Sec. 8-2-7 Exemptions

**A.** Any person who has been a bona fide resident of the Town of Superior for a period of six months continuously who wishes to sell any form of agricultural product within the town produced, by himself shall be exempt from paying any license tax under this article for the privilege of selling such products only. Before receiving the exemption, an affidavit of the facts entitling the seller to an exemption must be filed with the clerk.

8-2-7 Business 8-3

**B.** Any nonprofit, charitable or religious organization may apply to the council for an exemption from this article.

Sec. 8-2-8 Business License Fees

**A.** Unless otherwise specified in this section, all businesses, occupations, professions, trades or callings shall, pay a license tax of Forty (\$40.00) Dollars for any year or part thereof that said business, occupation, profession, trade or calling is carried on.

**B.** Any fortuneteller or palmist shall pay a daily license fee of twenty-five dollars (\$25).

**C.** For any year or part thereof that any person holds a liquor license, he shall pay the following license tax:

- 1.** #6 or #9 Liquor License - Ninety (\$90.00) Dollars for any full or part year said license is held.
- 2.** #7 or #10 Liquor License - Seventy Five (\$75.00) Dollars for any full or part year said license is held.
- 3.** #8 or #11 or any other Liquor License - Fifty (\$50.00) Dollars for any full or part year said license is held.

**D.** Any solicitor, peddler, hawker, salesman or vendor with no established place of business or operation within the town shall pay a daily license fee of fifteen dollars.

**ARTICLE 3**

**Transaction Privilege Tax**



**Transaction Privilege Tax replaced by Model Tax Code by Ordinance No. 27 on the 2<sup>nd</sup> day of July, 1987.**

8-3 Business 8-3-1

**Article 8-3 TRANSACTION PRIVILEGE TAX**

- 8-3-1 Definitions
- 8-3-2 Permit Requirements
- 8-3-3 Imposition of Tax - Tax Schedule
- 8-3-4 Exemptions
- 8-3-5 Administration and Procedures
- 8-3-6 Assessment and Appeal
- 8-3-7 Violations

### Sec. 8-3-1 Definitions

In this article unless the context requires otherwise:

- A. “Assembler”** means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of Section 8-3-3 (A) of this article.
- B. “Auditor”** means any town employee or agent authorized by the tax collector to audit records of a person subject to the tax specified by this chapter and may include an employee of another city or town.
- C. “Business”** includes all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales.
- D. “Contracting”** means engaging in business as a contractor.
- E. “Contractor”** means a person who, for either a fixed sum, price fee, percentage, bonus or other compensation other than actual wages, undertakes to or offers to undertake to, or purports to have capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term “contractor” includes sub-contractors, specialty contractors, developers and speculative builders.
- F. “Engaging”** when used with reference to engaging or continuing in business, means the exercise of corporate or franchise powers.
- G. “Gross income”** means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value of proceedings or accruing from the sale of tangible personal property or service, or both, and without any deduction on account of losses.
- H. “Cross proceeds of sales”** means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expenses of any kind, or losses, but cash discounts allowed and taken on sales shall not be included as gross income; “gross income” or “gross proceeds of sale” shall not be construed to include goods, wares or merchandise, or value thereof, returned by customers when the sale price is refunded either in cash or by credit, sold, if and when the full sale price of the new article is included in the “gross income” or “gross proceeds of sales”, as the case may be.
- 8-3-1 Business 8-3-1
- I. “Cross receipts”** means the total amount of sale, lease or rental price, as the case may be, of the retail sale of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, and any amount for which credit is allowed by the seller to the purchaser, without any deduction there - from on account of the cost of the property sold, materials used, labor service performed, interest paid, losses or any other expense. The term does not include cash discounts allowed and taken or the sale price of property returned by customers, when the full sale price thereof is refunded either in cash or by credits
- J. “Hotel”** means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, apartment house, trailer or other lodging place within the Town of Superior, offering Lodging, wherein the owner and operator thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes or hospital.
- K. “Lodging” and “lodging space”** means the use or possession, or the right to the use or possession, of any room or apartment in a

hotel, or the right to the use or possession of furnishings or to the services and accommodations accompanying the use and possession of the room, including storage or parking space for the property of a transient.

**L. “Manufacturer”** means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to such materials new forms, qualities, properties or combinations. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of Section 8-3-3 (A) of this code.

**M. “Modifier”** means a person who reworks, changes or adds to a product, wares or articles of manufacture. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of Section 8-3-3 (A) of this code.

**N. “Notice”** means a written instrument served by the town as follows, with time commencing from date of mailing, serving, filing or recording:

1. By registered or certified mail to the last known address of the person to whom it is required to be given; or
2. By personal service upon the person or his lawful representative; or
3. By filing or recording with a clerk of the superior court or a county recorder.

**O. “Owner-builder”** means a person who owns or leases real property within the town acting as a contractor in constructing any improvement upon the real property which real property as improved is held by such person for his use or for rental purposes. An owner-builder who sells such real property as improved at any time on or before the expiration of twenty-four months after an occupancy permit for such improvement is issued, or if no permit is issued, within twenty-four months after final inspection of the improvement or when the improvement is completed whichever is later, shall be treated as a “prime contractor” for purposes of this article. For purposes of this definition, a “sale” of real property as improved includes any form of transaction whether characterized as a lease or otherwise which in substance is a sale and includes any lease of the improvement for a term of thirty years or more with all options for renewal being included as a part of the terra.

**P. “Permanent resident”** means any person who, as of a given date, has occupied lodging space or has paid or become obligated to pay for the right to occupy Lodging space, in a particular hotel for the thirty consecutive days next preceding such date, or has signed and performs under a lease.

8-3 Business 8-3-1

**Q. “Person” or “company”** herein used interchangeable, means an individual, officer, agent, firm, partnership, joint venture, association, corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is clearly intended by the context.

**R. “Prime contractor”** means a contractor which the owner or lessee of the real property being improved treats as being responsible for administration, construction and completion of the improvement. For purposes of this definition, a person who, for either a fixed sum, price, fee, percentage, bonus or other compensation other than actual wages, undertakes to or offers to undertake to, or submits a bid to, or does himself or by or through others, supervises the construction of the improvement, or coordinates the construction of the improvement, or both, is a prime contractor, unless such supervisor or coordinator demonstrates, to the town’s satisfaction, that another contractor is, in fact, the prime contractor for the improvement; provided, a person acting on behalf of an owner-builder rendering consulting services shall not be regarded as a prime contractor if:

1. Such person does not guarantee a maximum price for the improvement to the owner-builder;
2. Such person does not contract with contractors constructing the improvement; and
3. Such person is not responsible to the owner-builder for the administration, construction and completion of the improvement.

**S. “Repairer”** means a person who restores or renews products, wares or articles of manufacture. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of **Section 8-3-3** (A) of this article.

**T. “Retailer”** means every person engaged in the business of making sales at retail, and when in the opinion of the tax collector it is necessary for the efficient administration of this article, includes dealers, distributors, supervisors and employers, and salesmen, representatives, peddlers or canvassers as the agents of such dealers, distributors, supervisors or employers under whom they operate or

from whom they obtain the tangible personal property sold by them, whether in making sales on their own behalf or on the behalf of such dealers, distributors, supervisor or employers.

**U. “Retail sale” or “sale at retail”** means a sale for any purpose other than for resale in the form of tangible personal Property but the expressions of “transfer of possession”, “lease” and “rental” as used in the definition of “sale”, mean only such transactions as are found upon investigation to be in lieu of sales as defined without the words “lease” or “rental”.

**V. “Room rental”** means the total charge, exclusive of all federal, state and municipal taxes, made by any hotel for lodging or lodging space furnished any transient. If the charge made by such hotel to such transient includes any charge for services or accommodations in addition to that of lodging, or the use of lodging space, then such portion of the total charge as represents only room or lodging space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

**W. “Sale”** means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, or tangible personal property, for a consideration or any agreement therefore, and includes, but is not limited to:

1. Any transaction whereby the possession of property is transferred, but the seller retains a security interest for the payment of the purchase price.

8-3-1 Business 8-3-2

2. The fabrication of tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work, where such fabrication is customarily included in the sale price of similar tangible personal property sold to consumers.

3. The furnishing, preparing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property.

**X. “Stock”** means the goods and wares of a person kept for sale and traffic, and for the purpose of this article shall include, but not be limited to all tangible personal property specially ordered for any customer, if for any reason such specially ordered property is brought into the town prior to completion of the sale.

**Y. “Tangible personal property”** means personal property which may be seen, weighed, measured, felt, touched or is in any other manner perceptible to the senses.

**Z. “Tax collector”** means the common council of the town or its authorized agent.

**AA. “Taxpayer”** means any person Liable for any tax imposed by this article.

**BB. “Transient”** means any person who, for any period of not more than thirty days, either at his own expense or at the expense of another, obtains Lodging or the use of any Lodging space in any hotel for which lodging or use of lodging space a charge is made.

**CC. “Wholesaler” or “jobber”** means any person who sells tangible personal property for resale by a licensed retailer and does not sell tangible personal property for consumption by the purchaser. When a person normally selling for resale makes any sale at retail or for consumption by the purchaser, such person is defined as a “retailer” for purposes of this article.

## Sec. 8-3-2 Permit Requirements

**A.** Every person having a gross proceeds of sales or gross income upon which a privilege tax is imposed by this article desiring to engage in or a continue in business activities within the town shall make application to the tax collector for a transaction privilege permit, accompanied by a fee of two dollars, and no person shall engage in business or continue in business within the town until he shall have such a permit. This fee shall become effective for all new permits at the start of the day on which this article becomes effective. Previously existing privilege licenses shall be considered to be transaction privilege permits for the purposes of this article.

**B.** Application for privilege permits required under this article shall be made upon forms prescribed by the tax collector.

**C.** It shall be a condition precedent to issuance of a permit that all provisions of this code, ordinances, regulations and requirements

affecting the public peace, health and safety be complied with in total.

**D.** The privilege permit required by Section 8-3-2 (A) shall be good so Long as all returns and tax payments are made as required by this article.

**E.** Upon the failure of any person to pay the required tax, penalty and interest within a period of thirty days after it becomes due, the tax collector may give such person notice of intent to cancel the privilege permit. If the person so notified requests a hearing within ten days from notice, he shall be granted a hearing before the tax

8-3-2 Business 8-3-3

collector. Upon a finding by the tax collector that tax, penalty and interest is unpaid and has remained unpaid at Least thirty days, or if no request for hearing has been received within ten days after notification as herein provided, the privilege permit shall be cancelled and such permit shall not be reissued until all such taxes, penalty and interest due shall have been paid.

**F.** Any person whose privilege permit has been cancelled shall be required to pay a fee of twenty-five dollars for each reissue of a permit and such permit shall not be reissued until all taxes, penalties and interest have been paid. The tax collector may, at his discretion, reissue under the previous permit number or issue a new permit.

**G.** A person engaged in or conducting taxable business in two or more established locations within the town shall be required to obtain a separate permit for each Location, except that for the business of leasing or renting the use or occupancy of real property, only one application for such property within the town shall be required; however, the applicant shall be required to list all such property by street address or other satisfactory identification and shall notify the tax collector within ten days after sale or acquisition of any such real property, clearly identified by location in such instance.

**H.** At the time a taxable business is sold, or when any other ownership change occurs, a new privilege permit shall be obtained for each permit effective at the time of such change.

**I.** Any person holding a privilege permit shall be required to notify the tax collector of any change in either mailing address or location within fifteen days after such change occurs. A fee of one dollar shall be required whenever any change in location of a business within the town occurs.

**J.** The permit prescribed in **Section 8-3-2 (A)** shall be nontransferable and shall be displayed in some conspicuous part of the applicant's place of business.

### Sec. 8-3-3 Imposition of Tax – Tax Schedule

There is hereby levied and shall be collected by the tax collector for the purpose of raising revenue to be used in defraying the necessary expenses of the town, privilege taxes measured by the amounts or volume of business transacted by persons on account of their business activities, and in the amounts to be determined by the application of rates against values, gross proceeds of or gross income, as the case may be, in accordance with the following schedule:

**A.** Percentage of tax and business Liabile to taxation. An amount equal to one percent or the gross proceeds of sale or gross income from the business upon every person engaging in or continuing within the town in the following businesses:

- 1.** Transporting for hire persons or property by any means of transportation, from a point within the town to another point within the town or from a point within the town to another point within the State of Arizona; provided, that the levy shall not apply to common or contract carriers paying a tax under the provisions of Arizona Revised Statutes **Section 40-641**.
- 2.** Mining, quarrying, smelting or producing for sale, profit or commercial use, any oil, natural gas, limestone, sand, gravel, copper, gold, silver or other mineral product, compound or combination of mineral products, or felling, producing or preparing timber or any produce of the forest for sale, profit or commercial use. In computing the tax, the price shall be reduced by the actual freight paid by any person

8-3-3 Business 8-3-3

from the place of production to the place of delivery when the freight is included in the sale prices of the products.

3. Producing and furnishing, or furnishing to consumers, electricity, electric lights, current, power or gas, natural or artificial, and water.
4. Transmitting local or long distance messages or conversations by telephone, or messages by telegraph, from a point within the town to another point within the State of Arizona, including gross income derived from tolls, subscriptions and services on behalf of subscribers, or by publication of a directory of the names of subscribers.
5. Operating a pipe Line for transporting oil, or natural or artificial gas, through pipes or conduits from a point within the town to another point in the town or in the state.
6. Operating private railroad car lines, as they are defined in Title 42, Chapter 4, Article 3, Arizona Revised Statutes, from one point within the town to another point in the town or state.
7. Publication of newspapers, magazines or other periodicals and publications, when published within the town, including the gross income derived from advertising, notices and subscriptions sold within the town. Subscriptions sold within the town for newspapers, magazines or other periodicals and publications published without the town shall also be taxable under this section, and advertising sold within the town shall likewise be taxable.
8. Job printing, engraving, embossing and copying, advertising by billboards, direct mail, radio, television or by any means calculated to appeal to prospective purchasers or users.

9. The contracting business or acting as a prime contractor, or both.

a. For purposes of this classification, there shall be subtracted from the gross income, gross proceeds of sale or gross receipts subject to the privilege tax, a deduction in the amount of thirty five percent of said gross income, gross proceeds of sale or gross receipts in lieu of any Labor, shop or subcontractor deductions. Subcontractors or others, who perform services in respect of the improvement, building, highway, road, railroad, excavation or other structure, project, development or improvement (hereinafter "job") are exempt from the privilege tax on their gross income, gross proceeds of sale or gross receipts derived from the job if they can demonstrate to the town's satisfaction that the job was within the control of a prime contractor or prime contractors and that such prime contractor paid or should have paid the privilege tax upon the gross income, gross proceeds of sale or gross receipts attributable to the job and from which the subcontractors or others were paid.

b. An owner-builder, who is not a prime contractor, shall pay the privilege tax or use tax, as the case may be, upon the sales to him or to his account of all tangible personal property incorporated or fabricated into any structure, project, development or improvement under-taken by him; provided, if the owner-builder is treated as a prime contractor for privilege tax purposes, he shall deduct from the gross income, gross proceeds of sale or gross receipts derived from the sale (as defined under owner-builder) of the real property as improved by him:

(1) An amount of thirty-five percent of said gross income, gross proceeds of sale or gross receipts in lieu of any labor, shop or subcontractor deductions;

8-3-3 Business 8-3-3

(2) Either a tax credit equal to the amount of privilege or use tax, or the equivalent tax, paid to the Town of Superior or another city or town in respect of the tangible personal property incorporated or fabricated into the said structure, project, development or improvement undertaken by him, and

(3) A tax credit equal to the amount of privilege taxes paid by the contractor or subcontractors to the Town of Superior on the gross income, gross proceeds of sale or gross receipts derived by the contractor or sub-contractor from the construction of the improvement upon the real property owned or leased by the owner-builder and sold by him.

c. Reporting by contractors. Contractors shall report on a progressive billing basis or cash receipts basis, but home builders, speculative or otherwise, and owner-builders shall report as gross income, gross proceeds of sale or gross receipts the total selling price at the time of closing of escrow or transfer of title.

d. Deductions allowable and pertaining to the gross income, gross proceeds of sale or gross receipts may not be taken prior to the time that said proceeds or receipts are reported.

**10.** Restaurants, dining rooms, lunchrooms, lunch stands, soda fountains, bars, taverns or similar establishments where articles of food or drink are sold, and catering or sale of food or drink from mobile units within the town. Articles of food or drink prepared for service or resale by another person may be deducted, providing that the person reselling has a valid privilege permit for such purpose.

The sale to hotels, restaurants, lunchrooms, boarding houses or similar establishments of articles used by human beings for food, drink or condiment, whether simple, mixed or compound, where such articles are customarily prepared and served to patrons for consumption on the premises, shall be deemed wholesale use as to such commodities, providing that the person reselling has a valid privilege permit for such purpose.

**11.** Selling any tangible personal property whatsoever at retail or to the ultimate consumer, including but not limited to sale of new and used vehicles of any type, and sales made from mobile units when within the town. Gross receipts from painting signs on structures within the town or upon vehicles while within the town shall be taxed as retail sales, without deduction. Sales of tangible personal property within the State of Arizona which result from activities of agents or representatives of a person whose principal office within Arizona is within the Town of Superior shall be taxable, provided that delivery is made from the town.

**12.** Operating or conducting amusements including but not limited to theaters, movies, operas, exhibitions, concerts, carnivals, circuses, shows of any type or nature, amusement park admissions, amusement rides, menageries, fairs, races, contests, games, golf courses, tennis courts, batting or driving ranges, riding on any animals, juke boxes, pinball machines, billiard and pool parlors, bowling alleys, dance halls, public dances, boxing or wrestling matches, or any other business charging admission fees for exhibition or amusement. Nonprofit private clubs where basic membership fees cover use of amusement facilities, and amusements conducted by the organizations themselves on an occasional basis to raise funds for projects of bona fide religious organizations, nonprofit educational institutions and nonprofit fraternal or service clubs are exempt.

**13.** Leasing or renting for a consideration any tangible personal property; sales of tangible personal property to be so leased or rented shall be deemed to be resale sales.

#### 8-3-2 Business 8-3-4

**14.** Leasing or renting for a consideration the use or occupancy of real property, including any improvements, rights or interest in such property.

### **B.** Basis for taxation under certain conditions.

**1.** In determining value as applied to sales from one to another person, or other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the council may prescribe uniform and equitable rules for determining the value upon which the tax herein levied shall be based, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character of other taxpayers where no common interest exists between the buyer and seller, but otherwise under similar circumstances and conditions.

**2.** For the purpose of computing the tax by this article, "conditional or time sales" shall be treated as credit sales and tax shall be based only upon the amounts received under such security agreements, but if the seller transfers his interest in such agreements to a third person, he shall pay an amount based upon the full sale price of the commodity, unless a record is kept of payments thereafter made on the contract in such manner that the tax collector may at all times ascertain from the records of the seller the amount paid thereon by the purchaser. If at any time the tax collector cannot ascertain the amount paid thereon, the tax shall be computed to include any amounts not shown to be paid by the records of the seller to the satisfaction of the tax collector.

**3.** When any person is engaged in an occupation or business to which **Section 8-3-3** is applicable, such person's books shall be kept so as to show separately the gross proceeds of sale of tangible personal property and the gross income from sales of nontaxable service, and if not so kept, the tax shall be based upon the total of such person's gross proceeds of sales of tangible personal property and gross income from service.

**4.** When any person is engaged in the business of selling tangible personal property at both wholesale and retail, the retail rate shall be applied only to the gross proceeds of the sales made other than at wholesale when such person's books are kept so as to show separately the gross proceeds of sales of each class, and when such books are not so kept, the retail rate shall be applied to the gross proceeds of every sale so made.

**5.** For the purpose of **Section 8-3-3**, the total amount of gross income, gross receipts or gross proceeds of sale shall be deemed to be the amount of the sale, exclusive of the tax imposed by **Section 8-3-3**, providing the person upon whom the tax is imposed shall establish to the satisfaction of the tax collector that any tax collected from customers has been added to the sale price and not absorbed by him.

### Sec. 8-3-4 Exemptions

The following shall not be subject to taxation under this article:

**A.** Any business, calling, profession or occupation where the general law of the State of Arizona or general law of the United States of America preclude the levying of such a tax.

**B.** Sales in interstate or foreign commerce when prohibited from being so taxed by the Constitution or general laws of the United States or by the Constitution of the State of Arizona.

8-3-4 Business 8-3-4

**C.** Professional services, instruction and other services not connected with the making of retail sales.

**D.** Contracting, retail sales and any other taxable activity for the Town of Superior.

**E.** Sales of gasoline upon which a tax has been imposed under the provisions of Title 28, Chapter 9, Article 9, Arizona Revised Statutes.

**F.** Sales of tangible personal property to a person licensed as a contractor under Title 32, Chapter 10, Arizona Revised Statutes, who holds a valid privilege tax permit for engaging in or continuing in the business of contracting when the property so sold is incorporated or fabricated by the contractor into any structure, project, development or improvement in fulfillment of a contract therefore.

**G.** Sales of tangible personal property made directly to the United States Government, its departments or agencies, by the manufacturer, modifier, assembler or repairer. A deduction of fifty percent shall be permitted where such sales are made by persons other than those specified in the previous sentence.

**H.** Sales of tangible personal property by persons engaging in or continuing in the business of processing, manufacturing, fabricating, modifying, assembling or repairing, when such sales are made for resale and not at retail and not to an ultimate consumer. This subsection shall not apply to any sales of tangible personal property which are not the same as or similar to tangible personal property sold through distributors, jobbers, wholesalers, retailers or other persons than those substantially and principally engaging or continuing in the actual manu-facturing, processing, fabricating, modifying or assembling thereof.

**I.** Sales of tangible personal property to manufacturers, modifiers, or assemblers where such property directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

**J.** Services provided in connection with retail sales if invoices to the customer, sales tickets, cash register tapes and all other business records show separate charges for such services. This exemption shall apply only where such service is not customarily included in the retail sale itself and where such service is not an essential element in the retail sale itself. No deduction shall be allowed for fabrication labor of retail items sold.

**K.** Sales of tangible personal property in which all of the following occur without the town Limits of the Town of Superior.

1. The placement of the order.
2. The stock from which delivery was made.
3. The transference of title and possession.

For the purposes of this exemption, any person engaging or continuing in the business to which this exemption is appli-cable shall maintain and keep accounting records or books indicating separately the gross proceeds of sale or gross income of tangible personal property which occur without the town limits, and if not so maintained the tax to be imposed will be upon the total of such person's gross proceeds of sale

or gross income.

**L.** The sale of drugs on the prescription of a member of the medical, dental or veterinary profession who is licensed by law to administer such drugs.

8-3-4 Business 8-3-4

**M.** All personal property purchased in this town by any hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or operated by the state or any political subdivision of this state.

**N.** The sale of stock and bonds.

**O.** Sales of machinery or equipment to be used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations, including leaching, milling, precipitating, smelting and refining.

**P.** Sales of machinery or equipment to be used directly in the process of extracting ore or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and for the handling, loading or transportation of such extracted material to the surface.

**Q.** Sales to telephone or telegraph companies of central office switching equipment, switchboards, private branch exchange equipment, microwave radio and carrier equipment and coaxial cable.

**R.** Sales of machinery, equipment or transmission lines to be used directly in the production or transmission of electrical power, but not for such machinery, equipment for transmission lines that are to be used for distribution and not for transformers and control equipment to be used at transmission substation sites.

**S.** Sales of pipes or valves four inches in diameter or Larger to be used for transporting oil, natural gas, artificial gas, water or coal slurry.

**T.** Sales of aircraft, navigational and communication instruments and other accessories and related equipment to be used in conjunction with or to become part of aircraft to be used in the transportation of persons, property or U.S. Mail in intrastate, interstate or foreign air transportation for hire by airlines holding a federal or state certificate of public convenience and necessity or holding a foreign air carrier permit.

**U.** Sales of railroad rolling stock, rails, ties and signal control equipment to be used directly in the transportation of persons or property in intrastate or interstate transportation for hire.

**V.** Sales of machinery or equipment to be used directly in the drilling for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

**W.** Sales or gross income from sales of food by any of the following:

**1.** A retailer who conducts an eligible grocery business.

**2.** A retailer who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged and sold in a similar manner as an eligible grocery business.

**3.** A retailer who sells food and does not provide or make available any facilities for the consumption of food on the premises.

**4.** A retailer who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two cash registers which are used to record taxable and tax exempt sales or a retailer who conducts a delicatessen business who uses a cash register which has a least two tax computing keys which are used to record taxable and tax exempt sales.

8-3-4 Business 8-3-5

**5.** A retailer who is a street or sidewalk vendor who uses a pushcart, mobile facility, motor vehicle or other such

convenience.

**6. Vending machines and other types of automatic retailers,**

**a.** For purposes of this subsection, the terms “eligible grocery business”, “facilities for the consumption of food”, “food” and “food for consumption on the premises: shall have these definitions as provided in Arizona Revised Statute Section 42-1381 and the rules and regulations adopted by the Arizona Department of Revenue pursuant to A.R.S. 42-1387, as if same were fully set forth herein.

**b.** All retailers availing themselves of this exemption may apply an average rate to the sales price of both food and non-food items as provided in A.R.S. 42-L384 and the rules and regulations adopted by the Arizona Department of Revenue.

### Sec. 8-3-5 Administration and Procedures

**A. Vested administration and payment of tax.** The administration of this article is vested in and exercised by the Town of Superior, except as otherwise specifically provided, and all payments shall be made to the Town of Superior or the Department of Revenue for the State of Arizona, when an agreement for collection is in force between the Department and the Town of Superior. If payment is made in any other form than money which is Legal tender in the State of Arizona and the United States of America, the tax obligation shall not be ended until the check, bank draft or money order has been honored by the person on whom drawn.

**B. Presumption that all gross receipts are taxable.** For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all gross receipts are subject to the tax until the contrary is established by the person seeking the exemption from said taxation.

**C. Burden of proving sale was not at retail.** The burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it, unless such person shall have taken from the purchaser a certificate to the effect that the property was purchased for resale.

**D. Tax imposed is cumulative and supplemental to others.** The tax imposed by this article shall be cumulative and supplemental to all other taxes levied by law.

**E. Records of taxpayer.** It shall be the duty of every person engaging or continuing in business activities within this town for which a privilege tax is imposed by this article to keep and preserve for a minimum of three years, suitable records of the gross income, gross receipts of sales, invoices for goods and merchandise purchased and sold, resale certificates, job Labor records and all other such books or accounts as shall be necessary to determine the amount of tax for which such person is liable under the provisions of this article. Collection of back privilege taxes by the town shall be limited to a period of three years prior to the date when the tax collector began an audit of the taxpayer’s books, wrote to the person through use of ordinary mail concerning an apparent violation of the article, or took some other recorded action to require a privilege tax permit application or other compliance with the article. ALL records mentioned in this subdivision above, shall be open for examination at any time by the tax collector.

**F. Divulging of information forbidden.** It is unlawful for any officer, employee or agent of this, Town of Superior to make known in any manner whatsoever the business affairs, operations or information obtained by an investigation of records and equipment of any person visited or examined in the discharge of his official

8-3-5 Business 8-3-5

duty, or the amount or source of income, profits, leases, expenditures or any particular thereof, set forth or disclosed in any return or report, or the amount of tax paid. The council may, by motion, authorize an examination of the reports made pursuant to this article by the United States Director of Internal Revenue or the proper officials of the State of Arizona. Successors, receivers, trustees, executors, administrators and assignees, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected interest and penalties. Divulging of applicable information to any authorized employee or agent of an incorporated city or town shall be permitted when an employee or agent of another incorporated city or town is authorized by the tax collector to conduct audits for the Town of Superior. Information supplied on privilege permit applications shall not be considered as confidential. Any officer, employee or agent of the Town of Superior shall be authorized to divulge such confidential information as may be necessary upon the order of a court of competent jurisdiction.

**G. Inadequate records.** In the event the records of the gross Income, gross receipts or gross proceeds of sales of the business, kept by

the taxpayer, are deemed by the tax collector to be unsuitable, or the taxpayer does not keep such other books or records as may be necessary to determine the amount of the tax for which he is liable under the provisions of this article, the tax collector may prescribe the form and manner of keeping such books and records. In the event the taxpayer fails or refuses to follow such prescribed form, and the tax collector cannot ascertain from the records kept by the tax-payer the gross income, gross receipts or gross proceeds of sale of the business or the amount of the tax for which the taxpayer is Liabable under the provisions of this article, the tax collector may proceed as though such taxpayer failed or refused to make a return in the manner prescribed by this article.

**H.** When tax variable, interest and penalties. Notwithstanding any other provisions of this Article to the contrary, taxes shall be due, payable and delinquent on the dates specified in Section 42-1322 of Arizona Revised Statutes for collection of the state transaction privilege tax. Interest and penalties shall be charged at the same rate and at the same time as provided in Section 42-1322 and 42-1327 of Arizona Revised Statutes for the state trans-action privilege tax or such other statutes as are intended by the legislature to replace said sections.

**I.** Cash receipts or accrual basis. The taxpayer may elect to file returns and pay his tax either on a cash receipts or accrual basis, but the taxpayer shall not change from one basis to the other, without the prior written approval of the tax collector. As a condition of granting such approval, the tax collector may require an audit of the taxpayer's records.

**J.** Consolidated returns. Any person engaging in two or more forms of business of like classification taxable under this article may file a consolidated return covering all business activities of like classification in which he is engaged within the town.

**K.** Extension of time for making returns. The tax collector may for good cause extend the date for making any return required under the provisions of this article, but the date for filing such return shall not be extended beyond the fifteenth day of the second month next succeeding the regular due date.

**L.** Penalty for delinquency. Any taxpayer who shall have failed to pay such tax within five days from the date upon which such payment shall have become due shall be subject to and shall pay a penalty of ten percent of the amount of such tax, together with interest on such tax at the rate of one percent per month or fraction thereof until paid.

**M.** Correction of errors. If the taxpayer makes an error or errors in computing the tax assessable against him, the tax collector shall correct such error and notify the taxpayer promptly by ordinary mail that such correction has been made. Any additional tax for which the taxpayer becomes liable shall be payable within ten days after the letter or form showing the correction is mailed to the taxpayer. If the taxpayer makes an error

8-3-5 Business 8-3-5

which results in overpayment of tax, the tax collector shall allow credit against tax due on future returns or shall authorize a refund to the taxpayer.

**N.** Duties of person quitting business, his successor or assignee. Any person who sells his business or stock of goods or quits business shall be required to make the return provided for under this article within fifteen days after the date he sold his business or stock of goods or quit business, and his successor in business or assignee shall be required to withhold a sufficient amount of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the tax collector showing that the taxes have been paid, or a certificate that no taxes are due.

**1.** If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided and the taxes shall be due and unpaid after the fifteen-day period herein provided, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operations of the business by the former owner.

**2.** Transaction privilege tax liability of the purchaser shall be limited to no more than that accrued during a period of one full year prior to the date such business purchase becomes effective,

**3.** It is unlawful for the purchaser to refuse or fail to pay the back taxes accrued during said period within thirty days after the tax collector mails a Letter or other notice by ordinary mail to the purchaser requesting such payment of back taxes.

**O.** Tax shall be lien. The tax imposed by this article, if not reported and paid by the due date specified by this article, shall constitute a Lien on the property of any person subject to this article. The procedure to perfect such Lien shall be as follows:

**1.** The tax collector shall give written notice to the tax-payer at his last known mailing address by certified or registered mail, or

such notice may be sent to the address at which the business is conducted. This written notice shall indicate that the town will file a lien on the subject property unless the taxpayer reports and pays all the tax past due including any penalties and interest due under this article or provides satisfactory evidence to the tax collector that no taxes are due, within a period of thirty days from service or receipt of said written notice.

2. If the taxpayer does not pay taxes due or provide evidence that no taxes are due within thirty days after service or receipt of said written notice, the tax collector may prepare in triplicate copies of a "Notice and Claim of Lien" and file one copy with the county recorder of the county in which the property is Located. The tax collector shall then send by certified or registered mail a copy to the taxpayer at his last known mailing address or at the address at which the business is conducted. The Notice and Claim of Lien" shall contain the following:

- a. A description of the property sufficient for identification.
- b. The name of the taxpayer as owner or reputed owner of the property.
- c. The amount of the delinquent tax, including penalties and interest; or if this amount cannot be determined precisely because suitable records and books were not made available by the taxpayer, the amount assessed, including penalties and interest, by the tax collector as authorized by this article when such books and records are not available or are unsuitable.

#### 8-3-5 Business 8-3-6

From and after the date of its recording in the office of the county recorder, the lien shall attach to the property until paid. A sale of the property to satisfy the lien shall be made upon judgment of foreclosure and order of sale. The town shall have the right to bring an action to enforce the lien in the superior court of the county in which the property is located, at any time after its recording, but failure to enforce the lien by such actions shall not affect its validity. The recorded "Notice and Claim of Lien" shall be prima facie evidence of the truth of all matters recited therein and the regularity of all proceedings prior to the recording therein.

A prior recording for the purposes provided in this section shall not be a bar to the subsequent recording of a Lien for such purposes, and any number of such Liens on the same property may be enforced in the same action.

**P.** Tax collector may examine books and papers. The tax collector may examine any books, papers, records or other data bearing upon the correctness of any return or for the purpose of making a return where none has been made, as required by the provisions of this article. If any person shall fail to appear before the tax collector or to answer any material question or to produce any books, records, papers or other data when requested to do so, such failure or refusal shall be reported to the town attorney, who shall thereupon institute proceedings in the superior court of the county where such witness resides to obtain compliance.

**Q.** Taxpayer's Liability. The liability of the taxpayer for taxes due shall remain the same, whether he collects sufficient added payments from his customers to cover such taxes due.

1. Where the taxpayer fails to show "tax collected", deductible "repair labor" and other deductible "service" on invoices to customers, sales slips and cash register slips, and on all applicable books and records, he shall be liable for taxation on his Cull gross receipts without allowance for such items.

2. The burden of proof for all deductions by any taxpayer shall be on taxpayer, who must prove to the satisfaction of the tax collector that such deductions shall have been legal and proper under this article. A person taking deductions for "resale" or for "payments to subcontractors" shall not take such deductions unless the persons for whom the deductions are taken have obtained the required privilege tax permits.

**R.** Tax liabilities or partners. All taxes assessed under the provisions of this article upon the business activities of a partnership shall be a liability and charges against each and all of the individual partners; but when paid by the partnership, such liability against each and all of the individual partners shall cease.

### Sec. 8-3-6 Assessment and Appeal

**A.** Assessment procedure. If any person who is required to file a return under the provisions of this article fails or refuses to make a return, the tax collector shall proceed, in such a manner as he may deem best, to obtain facts and information on which to base the

assessment of the tax herein prescribed; and to this end the tax collector may make examination of the books, records and papers of any such person; and may take the evidence on oath of any person whom he may believe to be in possession of facts or information pertinent to the subject of inquiry, which oath the tax collector may administer. If no other information is readily available, the tax collector may make a reasonable judgment on the basis of past reports by the taxpayer or by any predecessor. When the tax collector has reached a decision as to the assessment; he shall notify the taxpayer in writing of such assessment, which shall become final within thirty days after such notice, has been mailed or served, unless the taxpayer shall notify the tax collector in writing of a request for a tax hearing within said thirty days.

## 8-3-6 Business 8-3-6

**B. Hearing at tax payer's request.** When a taxpayer requests a hearing as indicated in **Section 8-3-6 (A)** such hearing shall normally be held in the offices of the Town of Superior provided that the tax collector may choose another suitable room in the same town or by mutual agreement with the taxpayer, he may hold the hearing in such other place as may prove desirable. The hearing shall be conducted by the tax collector, and it shall be closed to all except the tax collector and his authorized representatives and the taxpayer and his authorized representatives, unless the taxpayer agreed in writing to waive restrictions on release of confidential information. The tax collector shall provide the taxpayer with not less than ten days notice of the date, time and place of the hearing. During the hearing the taxpayer or his authorized representative may present any evidence he deems appropriate to the issues or questions under consideration. Within fifteen days after the conclusion of the hearing, the tax collector shall affirm, modify or vacate any decision made with respect to the issues or questions discussed in the course of the hearing. Notice of said decision shall be provided to the taxpayer by the tax collector as provided in this article, and said decision shall be effective in ten days after service of notice.

**C. Payment under protest.** If any person feels aggrieved by a tax assessment or believes that any or all of his activities are not subject to the privilege tax required by this article, he shall pay the amount of such assessment or tax claimed due before the delinquent date and shall at that time give notice in writing to the tax collector that all or part of such payment is made under protest, and shall in the notice give the grounds and reasons for such protest and that a certain part thereof or that the total sum is protested.

1. Within ten days after receipt of such protest, the tax collector shall reply in writing to the last known mailing address of the taxpayer, stating whether the assessment or tax applied is to be changed as requested, and giving reasons for the decision.

2. If the taxpayer is then dissatisfied, he may take appropriate action in the superior court to recover payments made under protest. Court action shall be taken within sixty days after the tax collector has mailed his reply as required by paragraph 1, above. Failure to take court action within the required sixty day period shall make the protest null and void.

3. If court action has been taken by the taxpayer under paragraph 2 above, all subsequent payments due shall be paid on or before the due date. However if each tax form is plainly marked "Paid Under Protest", such subsequent payments shall be treated as part of the original protest until such time as court remedies have been exhausted or the court action withdrawn by the taxpayer.

**D. Collection of delinquent taxes.**

1. If any tax imposed by this article, or any portion thereof, is not paid within thirty days after the same becomes delinquent, the tax collector shall be empowered to commence court action in any appropriate court of competent jurisdiction to collect tax, penalties and interest due, and to utilize any and all appropriate remedies as authorized under the laws of the State of Arizona. Such actions may be commenced whether separate criminal charges have been filed to cover alleged failure to comply with this article.

2. Every tax imposed by this article and all increases, interest and penalties thereon, shall become, from the time the same is due and payable, a personal debt from the person liable to the town and it shall be payable to and recoverable by the tax collector.

**E. Adoption of administrative procedure.** The council is hereby authorized to adopt written administrative regulations to implement the enforcement of this article or to further define terms used in the article. Such administrative regulations shall be enforceable as though they were integral portions of the article itself.

## 8-3-6 Business 8-3-7

**F. State of Arizona Administrative procedures.** Except where such regulations would conflict with administrative regulations adopted by the council or with provisions of this article, all regulations on the transaction privilege tax adopted by the State Department of Revenue under the authority of Title 41, Chapter 6, Article 1, Arizona Revised Statutes and amendments thereto, shall be considered as part of this article and enforceable as such.



### Sec. 9-1-1 Definitions

In this chapter unless the context requires otherwise:

- A.** “**Approved**” means acceptable to the Town.
- B.** “**Ashes**” means residue from the burning of any combustible material.
- C.** “**Garbage**” means all animal and vegetable wastes resulting from processing, handling, preparation, cooking, and serving of food or food materials.
- D.** “**Manager**” means the Superior Town Manager or his representative.
- E.** “**Manure**” means animal excreta, including cleanings from barns, stables, corrals, pens or conveyances used for stabling, transporting, or penning of animals or fowls.
- F.** “**Person**” shall include the state, a municipality, district or other political subdivision, a cooperative, institution, corporation, company, firm, partnership or individual.
- G.** “**Refuse**” means all putrescible and non-putrescible solid and semisolid wastes, except human excreta, but including garbage, rubbish, ashes, manure, street cleanings, dead animals, abandoned automobiles, and industrial wastes.
- H.** “**Rubbish**” means non-putrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, waste metal, tin cans, yard and tree clippings, wood, glass, bedding, crockery and similar waste materials.

### Sec. 9-1-2 Collection Agency

The Town, or collectors authorized by the town, shall collect all refuse within the town. No person except as provided in this chapter shall collect or gather refuse within the town.

9-1-3 Health and Sanitation 9-1-6

### Sec. 9-1-3 Collection Hours, Rules and Regulations

The hours of collection of refuse shall be designated by the manager, All occupants, tenants or owners of property within the Town shall comply with all rules and regulations established by the manager and approved by the council. It is unlawful to violate any rule or regulation so approved and established by council resolution, violation of any such rule or regulation shall be punishable as provided in **Section 9-3-5** of this chapter.

### Sec. 9-1-4 Rates, Billing, Enforcement

- A.** The council shall from time to time fix the rates and classifications for refuse and/or rubbish or other solid waste collection within the Town and shall make such other rules and regulations as may be necessary to properly administer and enforce this chapter. Except as otherwise specifically provided, each residential or commercial owner, tenant or occupant shall pay the established monthly fee for service whether utilized or not. Commercial and residential property owners or occupants may receive a reduced fee, approved by the Town manager, upon a showing of proof that they have not utilized the service for a period in excess of thirty (30) days due to absence from the community. All rates shall be set by Council resolution.
- B.** The Town Manager is authorized to establish and implement a process for billing customers for Town services. Billings may be made on a quarterly basis; however, customers may pay the billing in three (3) equal installments without penalty. In such cases, a handling fee may be added in the next quarter’s billing.
- C.** All billings are payable within twenty (20) days of billing. A penalty of ten (10%) percent of the unpaid amount shall be added to all

accounts where payment is not received within thirty (30) days of billing.

**D.** The Town may combine in one billing charges for sewer and garbage collection and enforce the payment of each in any manner authorized by this Code or State law.

### Sec. 9-1-5 Payment of Fees, Collection Process, Notice of Violation

**A.** Billing for fees for collection services may be made on a quarterly basis in advance on residential properties, or as otherwise approved by the Manager. Payment of the fee must be made within thirty (30) days of billing. The success of any collection process approved by the town depends upon proper participation of all commercial and residential property owners or occupants. Therefore, the payment of the fee approved by the town shall be considered part of that participation. Failure to pay the approved rates for collection within the time periods required, and after written notice is provided the owner or occupant and placed on the property, shall be considered a violation of **Section 9-1-4** of this chapter and punishable as provided in **Section 9-3-5**.

### Sec. 9-1-6 Responsibility Maintaining Premises

**A.** The owner, agent or the occupant of any premises, business establishment or industry shall be responsible for the sanitary condition of said premises, business establishment, or industry. No person shall place, deposit, or accumulate or allow to be placed, deposited or accumulated on any premises or on any public Street, road, or alley any refuse or other objectionable waste, except in a manner described in this chapter for storage and collection.

#### 9-1-6 Health and Sanitation 9-1-8

**B.** The owner, agent, and the occupant of any premises, business establishment, or industry shall be responsible for the storage and disposal of all refuse accumulated by a method or methods described in this chapter.

**C.** The collection and disposal of all refuse not acceptable for collection by an authorized collection agency is the responsibility of each occupant, business, establishment or industry where such refuse accumulates, and all such refuse shall be stored, collected, and disposed of in a manner approved by the town, and in compliance with all applicable laws, rules and regulations.

**D.** All dangerous materials and substances shall, where necessary, be rendered harmless prior to collection and disposal.

**E.** All refuse disposals shall be at a facility approved for such disposal by the County and State.

### Sec. 9-1-7 Storage

**A.** All refuse shall be stored in accordance with the requirements of this chapter. The owner, agent, or occupant of every dwelling, business establishment, or other premise where refuse accumulates shall utilize a sufficient number of suitable and approved containers for receiving and storing of refuse, and shall keep all refuse therein, except as otherwise authorized by this chapter.

**B.** Garbage shall be stored in durable, rust resistant, nonabsorbent, watertight, and easily cleanable containers, with close fitting covers and having adequate handles or bails to facilitate handling. The size of the container shall be determined by the manager and at least one such container may be provided by the authorized collection agency or the town. If a container is provided by the collection agency, said containers shall be utilized by the owner or occupant of the property.

**C.** Bulky rubbish and brush refuse such as tree trimmings, newspapers, weeds, and large cardboard boxes shall be handled as directed by the manager. Where garbage is not separated from rubbish, all containers for storage of mixed rubbish and garbage shall meet the requirements specified in subsection (B) of this section.

**D.** Containers for the storage of refuse shall be maintained in such a manner as to prevent the creation of a nuisance or a menace to public health. Containers that are broken or otherwise fail to meet the requirements of the rules shall be replaced.

**E.** Manure and droppings shall be removed from pens, stables, yards, cages, conveyance, and other enclosures as often as necessary to

prevent a health hazard or the creation of a nuisance. All material removed shall be handled and stored in a manner that will maintain the premises nuisance free. A health hazard and a nuisance shall be presumed if the odor is detected beyond the boundaries of the property.

### Sec. 9-1-8 Frequency of Collection

- A.** The frequency of collection of refuse shall be in accordance with rules of the town, but not less than that shown in the following schedule.
- 1.** Residential - twice weekly.
  - 2.** Commercial - two to five times per week

9-1-6 Health and Sanitation 9-1-11

- B.** It shall be unlawful and a class 2 misdemeanor for any person to place, deposit, accumulate or store on any premises or on any public street, road, or alley any refuse or other objectionable waste, except in a manner described in this chapter for storage and collection.
- C.** Failure to maintain premises free of refuse shall be presumed if refuse, garbage or rubbish is kept, placed, deposited, stored or accumulated on a person's premises for a period longer than seven (7) days after written notice of a violation and request to abate is given to the occupant or is mailed to the owner at the address to which the County tax notice is mailed. Said presumption shall run against the owner, occupant, leaser and any other person found to be in control of, or having a right to control, the premises.

### Sec. 9-1-9 Place of Collection

- A.** All refuse shall be properly placed on the premises for convenient collection as designated by the manager and the collection agency.
- B.** Where alleys are provided and accessible, collection may be made on the alley side of the premises.

### Sec. 9-1-10 Vehicles Used for Collection

- A.** Vehicles used for collection and transportation of garbage, or refuse containing garbage, shall have covered, watertight, metal bodies of easily cleanable construction, shall be cleaned frequently to prevent a nuisance or insect breeding, and shall be maintained in good repair.
- B.** Vehicles used for collection and transportation of refuse shall be loaded and moved in such a manner that the contents, including ashes, will not fall, leak or spill there from. Where spillage does occur, it shall be picked up immediately by the collector and returned to the vehicle or container.
- C.** Vehicles used for collection and transportation of rubbish or manure shall be of such construction as to prevent leakage or spillage, and shall provide a cover to prevent blowing of materials or creating a nuisance.

### Sec. 9-1-11 Disposal – General Responsibility

All refuse, rubbish, garbage or other objectionable waste must be removed from any premises within ten (10) days of same being deposited, placed or accumulated on said premises. Disposal shall be made to a disposal site and/or sanitary landfill approved by the Arizona Department of Environmental Quality or successor agency. The owner, occupant or leaser of any premises shall be jointly and severally responsible for such disposal, and can comply with such obligation by preparing and storing same for collection by an approved collection agency as provided in this chapter.

## ARTICLE 9-2 PREPARATION OF REFUSE FOR COLLECTION

- 9-2-1 Preparation of Refuse for Collection
- 9-2-2 Location for Pick Up
- 9-2-3 Lids and Covers
- 9-2-4 Use of Containers
- 9-2-5 Unlawful Storage or Collection - Penalty

### Sec. 9-2-1 Preparation of Refuse for Collection

All refuse shall be prepared for collection or disposed of as follows:

**A. Refuse:** The residential customer shall utilize containers provided by the collection agency or the Town for the accumulation, storage, and collection of all garbage. Such containers shall be tightly covered and be of rust-resistant metal or plastic and shall have handles on the outside. The maximum capacity of each container shall not exceed one hundred (100) gallons. Such containers shall be kept in good repair and in a sanitary condition. Containers found to be no longer serviceable through disrepair or maintained in an unsanitary condition may be condemned by the Town for further use. Legal notice of such condemnation shall consist of a label or tag affixed to the container. Receptacles not placed in satisfactory condition or replaced within fifteen (15) days of said notice may be removed and destroyed by the Town.

**B. Brush or Tree Trimmings:** Brush or tree trimmings shall be cut into such a size not more than four (4) feet in length that one person can readily load the individual pieces into a truck or chipper and shall be piled in neat order with all long branches parallel to one another and shall have all metal or foreign materials removed to facilitate chipping. When possible, brush and trimmings shall be stored in the containers provided for collection.

**C. Bulk Rubbish - Vehicles and Junk:** The collection agency may collect discarded small appliances and similar items from dwelling premises that one (1) person can readily lift into a truck. The customer shall remove or cause to be removed all other appliances, abandoned and junk vehicles as defined in this chapter or other large metal items weighing more than seventy (70) pounds whether classed as refuse or rubbish from their premises or property within the Town. The manager and collection agency shall provide information where the resident can dispose or recycle items. The authorized collection agency may charge a fee approved by the manager for collection and disposal of such large items.

**D. Building Materials:** All owners, contractors and builders of structures shall, upon the completion of any structure, gather up and haul away, at their sole cost and expense, all refuse of every nature, description or kind which has resulted from the building of such structure including all lumber scraps, shingles, plaster, brick, stone, concrete and other building materials and shall place the lot and all nearby premises utilized in such construction in a sightly condition.. Residential customers may dispose of small amounts of building materials from time to time, providing the building materials are placed in a container as described above and contain no concrete, masonry or soil.

**E. By-products:** Any commercial or manufacturing establishment which by the nature of its operations creates an unusual amount of by-product refuse may be required by the town to dispose of its own refuse or waste as opposed to having the town or collection agency provide the service.

**F. Hazardous or Dangerous Waste:** Only fully approved agencies may collect hazardous or dangerous waste, refuse or materials. Any such refuse or materials must be disposed of by the owner or occupant of the premises in compliance with all local, state and federal laws or regulations.

**G. Soil and Concrete:** Waste soil, concrete, masonry blocks, sod and rocks shall be disposed of in a lawful manner by the owner,

tenant or occupant of the premises.

**H. Recycling Programs:** The foregoing provisions notwithstanding, the town may commence a recycling program which will require sorting of refuse into types of materials. All owners or occupants of property within the town shall comply with all rules, regulations and sorting requirements of any such program.

**I. Tires - Batteries:** Discarded or unused tires or batteries shall not be stored or collected on any premises unless otherwise authorized by law on commercial premises, which are licensed for retail sale or trade of such items. All owners, occupants or tenants shall dispose of tires or batteries in a manner allowed by federal, state and local law within ten (10) days of the date they are first placed on the premises.

### Sec. 9-2-2 Location for Pick-up

All refuse shall be prepared for collection in the proper manner and placed in the location designated for collection by the manager and collection agency. All containers of garbage, refuse, brush refuse and rubbish shall be so located as to not block the street, alley, sidewalk or gutter, or otherwise be a hazard to pedestrian or vehicular traffic, Garbage and refuse shall be placed in the designated area only on the day of collection no more than eight (8) hours prior to collection.

### Sec. 9-2-3 Lids and Covers

The lids or covers of all containers shall at all times be kept secure so that flies and other insects may not have access to the contents and shall only be removed while the containers and receptacles are being filled, emptied or cleaned.

### Sec. 9-2-4 Use of Containers

It is unlawful for any person to deposit or cause to be deposited any refuse in any container that he does not own or is not entitled to use as a tenant or occupant.

### Sec. 9-2-5 Unlawful Storage or Collection - Penalty

- A.** It is unlawful for any person, owner or occupant to collect, store or fail to dispose of any refuse, junk, appliance or other materials as required in this chapter or applicable rules or regulations or to maintain or keep any premises in violation of the provisions of this chapter.
- B.** Unlawful storage, collection or disposal of refuse is a class (2) misdemeanor; It shall be a separate offense for each and every day or portion thereof such violation continues.

#### 9-2-5 Health and Sanitation 9-3-5

- 1.** Upon conviction for a violation of any provision of this chapter, and as a condition of probation, the Court is authorized to order restitution to the Town for all costs or expenses incurred to abate the violation.

## Article 9-3 OTHER METHODS OF GARBAGE AND TRASH REMOVAL

- Section 9-3-1 Hauling Refuse
- Section 9-3-2 Vehicles and Receptacles to be Spill Proof
- Section 9-3-3 Spilled Refuse
- Section 9-3-4 Dumping Refuse
- Section 9-3-5 Violations - Penalty

### Sec. 9-3-1 Hauling Refuse

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue, or alley in the Town, in violation of any provision of this chapter.

### Sec. 9-3-2 Vehicles and Receptacles to be Spill Proof

It is unlawful for any person to haul or cause to be hauled on or along any public street in the Town any garbage, unless such garbage is contained within a strong watertight vehicle or within a watertight receptacle constructed to prevent any such garbage from falling, leaking, or spilling and any odor from escaping.

### Sec. 9-3-3 Spilled Refuse

Any person hauling any refuse along the streets of the Town shall immediately replace, in the conveyance used for such hauling, any refuse which may fall upon any street.

### Sec. 9-3-4 Dumping Refuse

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the Town, except as specifically permitted in this chapter.

### Sec. 9-3-5 Violations - Penalty

It shall be a class (2) misdemeanor to willfully or intentionally violate, or fail to comply with any provisions of **articles 9-1, 9-2, or 9-3** of the chapter. Each day a violation continues shall be a separate offense.

#### 9-4 Health and Sanitation 9-4-3

### Article 9-4 REMOVAL OF LITTER

- Section 9-4-1 Definitions
- Section 9-4-2 Lifter on Private Property
- Section 9-4-3 Owner to Maintain Premises
- Section 9-4-4 Procedure to Compel Removal of Liner
- Section 9-4-5 Notice to Remove
- Section 9-4-6 Service of Notice
- Section 9-4-7 Appeal to Council
- Section 9-4-8 Removal by Town
- Section 9-4-9 Lien for Removal
- Section 9-4-10 Violations - Penalties - Littering

#### Sec. 9-4-1 Definitions

In this article, unless the context otherwise requires:

**A. Utter:** Means any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety, and shall include all putrescible and non-putrescible solid wastes including garbage, trash, ashes, street cleaning, dead animals, abandoned automobiles, and

industrial waste; any deposit, accumulation, pile, or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever; and any growth of weeds, brush, grass, or other vegetable growth to a height of over six (6) inches.

**B. Private Premises:** Means any lot, property, dwelling, house, building, or other structure, designed or used either wholly or in part for private residential or commercial purposes, whether inhabited or, temporarily or continuously, uninhabited or vacant, and shall include any lot, yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.

**C. Public Place:** Means any and all streets, sidewalks, boulevards, alleys, or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

### Sec. 9-4-2 Liner on Private Property

No person shall throw, deposit, or maintain litter on any occupied or unoccupied private premises within the Town, whether owned by such person or not, except that the owner or person in control of said private premises may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place.

### Sec. 9-4-3 Owner to Maintain Premises

The owner or person in control of any private premises shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized receptacles for collection.

9-4-4 Health and Sanitation 9-4-8

### Sec. 9-4-4 Procedure to Compel Removal of Litter

The manager shall enforce the provisions of **Section 9-4-2 and 9-4-3** by prosecuting violators in the Town Magistrate Court pursuant to the criminal provisions of this code. If such prosecution fails to secure compliance with the provisions of said sections, or in the event of inability to prosecute violators by reason of failure to secure jurisdiction over their person, the manager shall compel the removal of the litter by the procedure outlined in **Section 9-4-5 through 9-4-9** hereof, or such other procedure authorized by this code or state law.

### Sec. 9-4-5 Notice to Remove

If a person owning or controlling any private premises fails, neglects or refuses to remove or properly dispose of litter located on premises owned or controlled by such person, he/she shall be given written notice by the manager to remove all litter from such premises within thirty (30) days from the date the notice was received by him/her, and prior to the date of compliance on the notice. Such notice shall be received not less than thirty (30) days before the date set thereon for compliance, and shall contain an estimate of the cost of removal by the Town, a statement that unless the person owning or controlling such premises complies therewith within thirty (30) days from the date such written notice is received that the Town will, at the expense of the person owning or controlling said premises, perform the necessary work at a cost not to exceed the estimate given in the notice, and that such person may appeal in writing to the council within thirty (30) days from the date the notice is received by him/her and prior to the date of compliance.

### Sec. 9-4-6 Service of Notice

Notice shall be personally served on the owner or person controlling such premises, by a police officer of the Town in the manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such premises at his/her last known address by certified or registered mail, or the address to which the tax bill for the premises was last mailed. If the owner does not reside on such premises, a duplicate notice shall also be sent to him/her by certified or registered mail at his/her last known address and posted on the

premises. Notice shall be deemed received, for all purposes of this chapter, five (5) days after depositing same in first class mail to the address to which the tax bill is mailed by the county Assessor.

### Sec. 9-4-7 Appeal to Council

Prior to the date set for compliance on the notice, the owner or person controlling such premises may appeal in writing to the council from the demand of the manager. The council shall, at its next regular meeting after receiving the appeal, hear and determine the same and the decision of the council shall be final. The council may either affirm or reverse the decision of the manager or modify the scope of the work as required in the notice. An appeal shall be deemed waived if a written notice of appeal is not received by the clerk prior to the date set for compliance.

### Sec. 9-4-8 Removal by Town

When any person to whom notice has been given pursuant to this article, fails, neglects or refuses to remove from such premises any or all litter in a timely manner, the manager is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such premises. Upon completion

9-4-8 Health and Sanitation 9-4-10

of the work, the manager shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the premises on

which said work was done, including ten (10%) percent for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such premises in the manner prescribed in **Section 9-4-6** hereof. The owner or person controlling such premises shall have thirty (30) days from the date of service upon him/her to appeal in writing to the council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the manager within such thirty (30) day period, then the amount of the assessment as determined by the manager shall become final and binding. If an appeal is taken, the council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment shall be made. The decision of the council shall be final and binding on all persons.

### Sec. 9-4-9 Lien for Removal

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

### Sec. 9-4-10 Violations - Penalties - Littering

**A.** Any person, firm or corporation who is found to have violated any provision of this article on premises controlled by said person, firm or corporation is guilty of a Class two (2) misdemeanor, and in addition to any fine which may be imposed, shall be liable for all costs of removal which may be assessed pursuant to this article.

**B.** Any person, firm or corporation who shall place or keep any litter upon any private or public premises not owned or under the control of said person, firm or corporation shall be guilty of a Class one (1) misdemeanor and, in addition to any fine which may be imposed for violation of any provision of this section, shall be liable for all costs which may be assessed pursuant to this article for the removal of said litter.

C. A violation of this section shall be designated as littering. Each day a violation of any provision of this article continues shall be considered a separate offense.

9-5 Health and Sanitation 9-5-1

## Article 9-5 ABATEMENT OF PUBLIC NUISANCES

Section 9-5-1 Declaration of Public Nuisances - Definitions

Section 9-5-2 Unsanitary Conditions

Section 9-5-3 Public Nuisances - Abatement Procedure

Section 9-5-4 Unlawful Acts

Section 9-5-5 Penalty

Section 9-5-6 Costs of Abatement - Liability

Section 9-5-7 Limitation of Liability

### Sec. 9-5-1 Declaration of Public Nuisances - Definitions:

In addition to any other nuisances described in this Code, the following are declared to be public nuisances:

**A. Unsafe Conditions:** All unsafe conditions are declared to be a public nuisance and shall be abated by an appropriate method in accordance with the procedure specified in this Article or as otherwise provided by law. Unsafe conditions as used in this Article shall mean any unguarded well, cesspool, excavation pit or hole which by virtue of abandonment, dilapidation or lack of maintenance is a hazard to the public, and any premises or any portion thereof which, as the result of the accumulation or collection of litter as defined in Section 9-4-1 of this Chapter, is an attractive nuisance to children or a danger to the life, health, premises or safety of the public.

**B. Unsafe Buildings:** All unsafe buildings or structures are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this Article or as otherwise provided by law. For the purposes of this Code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, provided that such condition or defect exist to the extent that the life, health, premises, or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged or maintained as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Uniform Building Code for new buildings of similar structure, purpose or location.
3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Uniform Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage premises.
5. Whenever any portion of a building or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in, the Uniform

9-5-1 Health and Sanitation 9-5-1

Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the

Uniform Building Code for such buildings.

6. Whenever any portion thereof has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
7. Whenever the building or structure or any portion thereof is likely to partially or completely collapse because of:
  - A. Dilapidation, deterioration, or decay;
  - B. Faulty construction;
  - C. The removal, movement or instability of any building, or part of same;
  - D. The deterioration, decay or inadequacy of its foundation;
  - E. Any other cause.
8. Whenever, for any reason, the building or structure or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
9. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
10. Whenever the building or structure, exclusive of the foundation, shows thirty three (33%) percent or more damage or deterioration of its supporting member or members, or fifty (50%) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
11. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
  - A. An attractive nuisance to children; or
  - B. A harbor for vagrants, criminals or immoral persons; or
  - C. Assessable so as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
12. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this Town, as specified in the Uniform Building Code, or of any law or ordinance of this state or Town relating to the condition, location or structure of buildings.
13. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than fifty (50%) percent, or in any supporting part, member or portion less than fifty five (55%) percent of the strength,

9-5-1 Health and Sanitation 9-5-3

fire resisting qualities or characteristics, or weather resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

14. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or otherwise, is determined by the State, County or Town Health Officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
15. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive condition, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Chief to be a fire hazard,

16. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

17. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to make such building or portion thereof an attractive nuisance or hazard to the public.

### Sec. 9-5-2 Unsanitary or Unsafe Conditions- Emergency Measures

Unsafe conditions such as leaking sewage from broken sewer lines, open cesspools, excavation pits or other similar unsanitary or unsafe conditions shall be abated within twenty four (24) hours by the removal of water service to the building, other emergency remedial measures reasonably required or by other legal means available to the administrative authority or health department.

A. To avoid injury or damage to its citizens it shall be the policy of this Town to abate unsafe conditions as soon as reasonably possible after the condition has been reported to the proper authorities. No officer or official shall be liable in any manner for failing to cure or attempting to cure or remedy such condition.

### Sec. 9-5-3 Public Nuisances - Abatement Procedure

Public nuisances shall be abated as soon as reasonably possible by use of the procedure set forth in this Article or other legal or equitable means.

A. **Notice to Owner:** The building official shall examine or cause to be examined every premise, building or structure or portion thereof reported as dangerous, damaged, unsafe or as an unsanitary condition. Should the building official find same to be an unsafe building, unsafe condition or unsanitary condition as defined in this Article, he/she shall give the owner of such building, structure or unsafe or unsanitary premises written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within ten (10) working days, to commence either the required repairs or improvements or demolition and removal of the building, structure or hazard or portions thereof. All such work shall be completed within sixty (60) days from the date of notice, unless otherwise agreed in writing by the Building Official, if necessary, such notice shall also require the building, structure or portions thereof to be vacated forthwith, if occupied, and not

#### 9-5-3 Health and Sanitation 9-5-3

reoccupied until the required repairs and improvements are completed inspected and approved by the Building Official.

1. **Service of Notice and Order:** The notice and order, and any amended or supplemental notice and order, shall be served upon the recorded owner and posted on the premises; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records; the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him/her by the provisions of this section. A copy of the appeal rights set forth herein shall be served with said notice.

2. **Method of Service:** Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his/her address as it appears on the last assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building or premises involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

3. **Proof of Service:** Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of

the notice and order retained by the building official.

- B. Posting of Signs:** The Building Official shall cause to be posted at each entrance to such building or premises a notice to read: "Unsafe Conditions Exist, Do Not Enter, Unsafe to Occupy, Building Department, Town of Superior; such notice shall remain posted until completion of the required repairs, the demolishing of the building or abatement of the unsafe condition, whichever shall apply.
- C. Right to Demolish:** It shall be unlawful for the owner to fail, neglect, or refuse to comply with the notice and order to repair, rehabilitate, abate an unsanitary or unsafe condition, or to demolish and remove said building or structure or portion thereof within the time period set out in the notice. In case of such failure, the Building Official may proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Town Council, who may cause the same to be paid and levied as a special assessment against the premises or the Town may authorize a civil action for collection of said costs.
- D. Costs:** Costs incurred under subsection (C) shall be paid out of the Town Treasury. Such costs may be charged to the owner of the premises involved as a special assessment on the Land on which the building, structure or unsafe condition is located and shall be collected in the manner provided for special assessments.
- E. Appeal Procedure:** Any person entitled to service under **Section 9-5-3 (A) (1)** may appeal from any notice, order or action by the Building Official within twenty (20) days from the date of the service by filing with the Town Clerk a written notice of appeal which shall include:
1. The names of the appellants and a description of the premises involved.  
9-5-3 Health and Sanitation 9-5-5
  2. The legal interest of each of the appellants in the land or buildings involved in the notice or order.
  3. All facts supporting the contentions of the appellant and reasons why the action should be reversed, modified, or otherwise set aside on the protested order.
  4. The signatures of all parties named as appellants and their official mailing addresses.
  5. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the notice of appeal.
  6. Upon receipt of any appeal filed, pursuant to this Section, the Clerk shall present it to the Town Council and a public hearing shall be held within ten (10) working days after the Council is notified.
  7. After said hearing, the Council may affirm or modify, in part or in full, the orders of the Building Official. The Council shall make a specific finding of whether or not a public nuisance exists on the premises involved and, if it does, state the remedial measures required and the time period in which they shall be completed.
- F. Remedy Not Exclusive:** The procedures set forth in this Article for Abatement of Public Nuisances are in addition to all other legal or equitable remedies available to the Town and nothing contained herein shall be construed to the contrary.
- G. Building Official:** For purposes of this code the Building inspector or Town Manager or their designees shall be authorized to carry out the duties of the building official in this article.

#### Sec. 9-5-4 Unlawful Acts

It shall be unlawful and punishable as provided herein to maintain or keep any premises, building or structure in violation of the provisions of this Article or to interfere with the Building Official in the performance of his/her duties under this Article.

#### Sec. 9-5-5 Penalty

Any person, firm or corporation violating any of the provisions of this Article is guilty of a class two (2) misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the

provisions of this Article is committed, continued or permitted.

**A.** Upon conviction for violation of this Article, and as a condition of probation the Magistrate is authorized to order restitution to the Town for all costs or expenses incurred to prosecute for and abate any nuisance.

#### 9-5-6 Health and Sanitation 9-6-2

### Sec. 9-5-6 Costs of Abatement - Liability

Any person, firm or corporation who maintains or keeps any premises, building or structure in violation of this Article, shall also be liable to the Town for all costs or expenses incurred for the abatement of any such nuisance. The provisions hereof notwithstanding, the Town may in its discretion file an action in Superior Court to have such premises, building or structure declared a public nuisance and recover judgment for costs of removal or injunctive relief where appropriate.

### Sec. 9-5-7 Limitation of Liability

This ordinance shall not be construed to require regular inspections of premises by the Town or an obligation to abate any public nuisance as defined herein, reported or unreported within a specific time period. Neither the Town of Superior nor any of its officers or officials shall be liable in any manner for injuries or damages which result or are alleged to have resulted from any delay or failure to enforce the provisions of this Article.

## Article 9-6 SEWER ADMINISTRATION

- Section 9-6-1 Management of Sewer/Wastewater System
- Section 9-6-2 Receipts and Deposits
- Section 9-6-3 Application for Sewer Service
- Section 9-6-4 Grounds for Rejection of Application
- Section 9-6-5 Violation of Application Provisions
- Section 9-6-6 Notice Required for Discontinuance of Service
- Section 9-6-7 Sewer Service May Be Discontinued Under Certain Conditions

### Sec. 9-6-1 Management of Sewer System

The council through the Town of Superior Public Works Department (the Department), shall have the immediate control and management of all things pertaining to the Town sewer system and shall perform, or cause to be performed, all acts that may be necessary for the prudent, efficient, and economical management and protection of said system, The council shall have the power to prescribe, by resolution, such other and further taxes, fees, rules and regulations as it may deem necessary for said purposes.

### Sec. 9-6-2 Receipts and Deposits

**A.** Fees for Service. The Mayor and Council shall establish by resolution fees to be paid by customers for sewer service. Said fees may include, but are not limited to, monthly, quarterly, or yearly rates for sewer service, connection/hook-up fees, development fees, and reconnection fees, as well as penalties for non-payment.

**B.** The manager shall cause the Department to keep a correct account of all receipts, make out all bills for services supplied and materials furnished to consumers, collect the same, and deposit the proceeds so collected to the credit of the Town, and in accordance with the direction of the council.

### Sec. 9-6-3 Application for Sewer Service

Application for the use of sewer service shall be made in person, at the Town hall, to the Department by the owner, or agent, of the property to be benefited, designating the location of the property and stating the purpose for which the service is required. The connection fee as set by resolution shall be due at this time.

### Sec. 9-6-4 Grounds for Rejection of Application

The Department may reject any application for service for any good and sufficient reasons including but not limited to the following: service not available under a standard rate, service which involves excessive service expense, service which may affect the service to other consumers, when the applicant is delinquent in payment of bills incurred for service previously supplied at any location.

### Sec. 9-6-5 Violation of Application Provisions

- A.** For violation of any of the provisions relating to application for, or continuation of, service, the Town may, at the expiration of thirty (30) days after mailing written notice to the last known address of the consumer, at its option, dose the hookup and discontinue service. Before the service is reinstalled, the consumer shall first pay to the Town a reinstallation charge and deposit as set by resolution.
- B.** A consumer may appeal a cut off notice by filing a written notice of appeal within thirty (30) days of the date of the notice of termination was mailed. Such appeal shall be processed as an administrative appeal. The notice shall be filed with the Town Clerk within the time period and heard by the Mayor and Council within twenty (20) days of receipt of such notice.

### Sec. 9-6-6 Notice Required for Discontinuance of Service

Any person who desires to discontinue the use of sewer service shall file written notice with the department. Responsibility for cost of service extends to the time of actual termination of service by the Department or to the time specified for departure, whichever occurs last.

### Sec. 9-6-7 Sewer Service May Be Discontinued Under Certain Conditions

The Department may inspect any premises within the Town and discontinue service when there are reasonable grounds to believe it necessary for the following reasons:

- A.** To prevent fraud or abuse,
  - B.** Failure of the consumer- to comply with any rule of the department including failure to pay billings on a timely basis.
  - C.** Emergency repairs.
  - D.** Legal process.
- 9-6-7 Health and Sanitation 9-7-1
- E.** Direction of public authorities.
  - F.** Local emergency requiring emergency measures.
  - G.** Tampering with the Town line or other equipment by the consumer.
  - H.** To prevent a continuing violation of this chapter.

## Sec. 9-6-8 Occupied Units Liable

A charge shall be assessed for each additional unit, house, trailer, or mobile home utilizing the sewer service to a particular location. Said charge shall be set by council resolution.

## Article 9-7 CONSUMER RESPONSIBILITIES REGARDING SEWER SERVICE

Section 9-7-1 Consumer Sewer Facilities

Section 9-7-2 Consumer Negligence

Section 9-7-3 Right of Way

Section 9-7-4 Installation of Lines

Section 9-7-5 Protection of Town Property

Section 9-7-6 Supplying Water to Others Prohibited

Section 9-7-7 Sprinkling Restrictions

Section 9-7-8 Waste of Water Prohibited

Section 9-7-9 Inspections

Section 9-7-10 Shut-Off Valve Installation

Section 9-7-11 Interference with Sewer Department or Building Inspector; Digging up Streets without Permit

Section 9-7-12 Unsanitary Disposal of Excrement Prohibited

Section 9-7-13 Private Sewage System

Section 9-7-14 Tampering with Equipment Prohibited

Section 9-7-15 Permit Required

Section 9-7-16 Application

Section 9-7-17 Inspection and Approval by Sewer Department or Building Inspector

Section 9-7-18 Records to be kept by Department

### Sec. 9-7-1 Consumer Sewer Facilities

Unless otherwise specifically provided in this chapter, the consumer shall have complete responsibility for the installation and maintenance of adequate sewer facilities on the premises and the Town shall not in any way be responsible for the installation, maintenance, inspection, or damage of such facilities or damage caused by any defect in such facilities on the consumer's premises. Such facilities shall be maintained by the consumer in full compliance with any and all rules and regulations of the Town and applicable state statutes.

9-7-2 Health and Sanitation 9-7-7

### Sec. 9-7-2 Consumer Negligence

The consumer/occupant shall be responsible for any damage to the Town sewer system or injury to Town employees caused by the intentional or negligent act of said consumer/occupant, the cost of such shall be added to that consumer's bill, and if such charges are not paid, service may be discontinued. Nothing contained herein shall restrict the Town from pursuing any lawful remedy for collection of damages caused by a consumer/occupant.

### Sec. 9-7-3 Right of Way

Each consumer shall provide the Town with such easement and right of way as is necessary to provide service to that consumer and to enforce the provisions of this article. The application for and use of service shall automatically grant such rights to the Town as may be necessary to carry out the provisions of this chapter.

### Sec. 9-7-4 Installation of Lines

The Town may refuse to provide service unless the lines and/or piping are installed on the premises so as to prevent cross-connections or back-flow, or any other violation of this chapter or any applicable building or health code or regulation.

#### Sec. 9-7-5 Protection of Town Property

The consumer shall provide proper protection for Town property placed on his/her premises and shall permit only authorized representatives of the Town to have access to same.

#### Sec. 9-7-6 Supplying Service to Others Prohibited

No occupant or owner of any building to which sewer services are supplied by the Town will be allowed to supply said services to other persons or families or for use on any other property. The Town reserves the right to shut off the service for abuses of privileges.

#### Sec. 9-7-7 Waste of Water Prohibited

Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. All water outlets, including those used in conjunction with hydrants, urinals, water closets, bathtubs and other fixtures must not be left running for any purpose other than the use for which they were intended. In addition to the penalty provided herein for code violations, the sewer service may be discontinued where any such waste occurs.

9-7-8 Health and Sanitation 9-7-11

#### Sec. 9-7-8 Inspections

Whenever in the judgment of the Department it is deemed necessary for proper management of the system, the Department may inspect the premises or buildings of any consumer for the purpose of examining the condition of all pipes, motors, meters and fixtures, or the manner in which such facilities are used.

#### Sec. 9-7-9 Interference with Sewer Department or Building Inspector; Digging up Streets without Permit

It shall be unlawful for any person:

- A.** To interfere in any way with the officers of the department or building inspector in the discharge of any of their duties, either in the tapping of any sewer pipe main or lateral belonging to the Town or in the laying or connecting of such pipe, main or lateral.
- B.** To dig up or cause to be dug up any street or alley in the Town for the purpose of connection with the sewer system of the Town without first obtaining a permit from the department.
- C.** To fail or neglect to place a street or alley in its original condition, as required by the department, after said person has dug up or disturbed any portion of said street or alley.

#### Sec. 9-7-10 Unsanitary Disposal of Excrement Prohibited

It shall be unlawful for any person to deposit, or permit to be deposited in an unsanitary manner upon public or private property within the

Town or in any area under the jurisdiction of the Town any human or animal excrement or other objectionable waste.

Sec. 9-7-11 Private Sewage Systems

- A. Compliance with Chapter:** Except as provided in this chapter it shall be unlawful to construct or maintain within the Town any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- B. When Permitted: Sanitation:** Where a public sanitary or combined sewer is not available within the Town or in any area under the jurisdiction of the Town the building sewer shall be connected to a private sewage disposal system, which complies with the regulations of the State Department of Public Health or other agency having jurisdiction. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner.
- C. Discontinuance:** Within ninety (90) days after a public sewer becomes available within two hundred (200) feet of any property served by a private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this chapter and any septic tanks, cesspools, and similar private sewage facilities shall be abandoned and filled with suitable material.

9-7-12 Health and Sanitation 9-8-1

Sec. 9-7-12 Tampering with Equipment Prohibited

No person shall maliciously, willfully or negligently break damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works.

Sec. 9-7-13 Permit Required

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the sewer department.

Sec. 9-7-14 Application

An owner/occupant who desires connection to Town sewer shall make application for connection with the department and pay all fees at the time of filing said application.

Sec. 9-7-15 Inspection and Approval by Sewer Department or Building Inspector

No building sewer will be connected to the Town sewer until it has been inspected and approved by the department or building inspector.

Sec. 9-7-16 Records to be kept by Department

The department shall keep a record of all building connections made, the purpose for which they are to be used, together with the name of the owner and occupant of the property, his/her agent or representative.

Article 9-8 USE OF PUBLIC SEWERS

- Section 9-8-1 Prohibited Substances
- Section 9-8-2 Interceptors Required
- Section 9-8-3 Authority of Department
- Section 9-8-4 Preliminary Treatment
- Section 9-8-5 Manholes

Section 9-8-6 Tests and Analyses

Section 9-8-7 Special Agreements with Industrial or Private Concerns

Section 9-8-8 Violations - Penalty

### Sec. 9-8-1 Prohibited Substances

**A.** No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or industrial process waters to any sanitary sewer<sup>1</sup> unless specifically authorized by the manager.

#### 9-8-1 Health and Sanitation 9-8-2

**B.** Except as provided in this section no person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewer:

1. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit.
2. Any water or waste which may contain more than fifty (50) parts per million by weight of fat, oil or grease.
3. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
4. Any garbage that has not been properly shredded.
5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grits such as brick, cement, onyx, carbide or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer works.
6. Any waters or wastes having a pH lower than five and one half (5 1/2) or higher than nine (9) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans, or animals; or create any hazard in the receiving waters of the sewage treatment plant.
8. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
9. Any noxious or malodorous gas or substance capable of creating a public nuisance.

### Sec. 9-8-2 Interceptors Required

**A.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the sewer department, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, and other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units.

**B.** Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gas tight and watertight and shall be located as to be readily accessible for cleaning and inspection.

**C.** When required, all grease, oil, and sand interceptors shall be installed and maintained by the owner, at his/her expense, and must be in continuously efficient operation at all times. The owner shall keep written records of all cleaning, repair, calibration and maintenance required under this subsection. Such records shall be maintained for a period of three (3) years.

- D.** The department shall require replacement of any grease or oil interceptor which fails to operate efficiently at the owners' expense.

### Sec. 9-8-3 Authority of Department

The admission into the public sewers of any waters or wastes having any of the following characteristics shall be subject to the review and approval of the department:

- A.** A five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight.
- B.** Containing more than three hundred fifty (350) parts per million by weight of suspended solids.
- C.** Containing any quantity of substance having the characteristics described in **Section 9-7-1**.
- D.** Having an average daily flow greater than two (2%) percent of the average daily sewage flow of the Town.

### Sec. 9-8-4 Preliminary Treatment- Definitions

- A. Required:** Where necessary in the opinion of the Department, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to:
  - 1.** Reduce the B.O.D. to three hundred (300) parts per million and the suspended solids to three hundred fifty (350) parts per million by weight.
  - 2.** Reduce objectionable characteristics or constituents to within the maximum limits provided for in **Section 9-8-3**.
  - 3.** Control the quantities and rates of discharge of such waters or wastes.
- B. Approval:** Plans and specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the department and any state or Federal Agency having jurisdiction. No construction of such facilities shall be commenced until such approvals are obtained in writing.
- C. Maintenance of Facilities:** Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.
- D.** In this Article, unless the context otherwise requires:
  - 1.** "B.O.D., denoting biochemical oxygen demand, means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade expressed in parts per million (P.P.M.) in weight.
  - 2.** "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

### Sec. 9-8-5 Manholes

When required by the sewer department, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation and sampling of wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the sewer department. The manhole shall be installed by the owner at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times.

### Sec. 9-8-6 Tests and Analyses

All tests and analyses of the characteristics of waters and wastes to which reference is made in this Article, shall be determined in accordance with “standard methods for examination of water and sewage, and shall be determined at the control manhole provided for in the preceding section or upon suitable samples taken at such control manhole.

### Sec. 9-8-7 Special Agreements With Industrial or Private Concerns

- A.** No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore by the industrial concern. The Manager shall approve any such agreement.
- B.** The Town may accept waste from private individuals or companies delivered for dumping at the waste water treatment plant. Fees for such delivered for dumping at the waste water treatment plant. Fees for such dumping shall be established by resolution.

### Sec. 9-8-8 Violations - Penalty

It shall be a class (2) misdemeanor to willfully or intentionally violate, or fail to comply with any provision of **Article 9-6, 9-7 or 9-8 of this chapter 9**. Each day a violation continues shall be a separate offense.

## Article 9-9 LIABILITY

- Section 9-9-1 Interruption of Service
- Section 9-9-2 Liability Limited
- Section 9-9-3 Compliance with Regulations a Condition for Service

### Sec. 9-9-1 Interruption of Service

The Town shall notify the consumer in advance of any anticipated interruption of service when such advance notice is possible. The Town shall not be responsible for any interruption of service caused by forces beyond its control.

9-9-2 Health and Sanitation 9-9-3

### Sec. 9-9-2 Liability Limited

The Town shall not be held liable, in any respect, for the condition, defects, failure or use of any pipe, connection, fixture or appurtenance, not belonging to the Town or for loss or damage resulting there-from. The consumer accepts this limitation by applying for and utilizing sewer service.

### Sec. 9-9-3 Compliance with Regulations a Condition for Service

Compliance with all provisions contained in this Chapter 9 and all regulations adopted pursuant to same shall be considered a condition of every consumer/occupant receiving sewer service from the Town and such consumer/occupant receiving sewer service shall be considered as having expressly consented to be bound thereby. Consumers outside the Town limits shall, upon application for sewer service, be required to sign a statement agreeing to the provisions of this chapter and all regulations adopted to enforce same.

Chapter 10 Offenses

Chapter 10 Offenses

Section 10-1-1	Dangerous Constructions
10-1-2	Damage to Property
10-1-3	Deposits of Injurious Material on Thoroughfares
10-1-4	Excavations to be covered
10-1-5	Explosives
10-1-6	False or Misleading Reports to Police
10-1-7	Fences; Barbed Wire and Electric
10-1-8	Furnishing Weapons and Other Articles to Prisoners
10-1-9	Littering
10-1-10	Minors
10-1-11	Noise
10-1-12	Obstruction of Streets
10-1-13	Obstruction of View
10-1-14	Offensive Business
10-1-15	Offensive Premises
10-1-16	Prostitution
10-1-17	Searchlights
10-1-18	Signs and Banners
10-1-19	Spitting
10-1-20	Water-Flow Upon Streets
10-1-21	Weapons

### Sec. 10-1-1 Dangerous Constructions

It is unlawful for any person to maintain or allow any signs, billboards, awnings or other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

### Sec. 10-1-2 Damage to Property

**A.** It is unlawful for any person to damage or attempt to damage in any manner or tamper with any pipe line, water hydrant, street lamp or light, or the fixtures and appliances thereunto belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the town or any water pipes, hydrants or any appliances pertaining to the water or sewer works, or any other property of any and every character belonging to the town.

**B.** It is unlawful for any person to deface, walk, ride or drive upon or over any sidewalk or street crossing composed of or containing cement, during the construction thereof, or before the same is open to public use.

**C.** It is unlawful for any person to damage in any manner any road, Street or bridge In the town limits by using the same, by heavy vehicles, malicious destruction or by any act that will result in damage to any such road, street or bridge.

#### 10-1-2 Offenses 10-1-8

**D.** It is unlawful to break or destroy any window, door or part of any dwelling owned or occupied by another or to break or sever from any premises owned or occupied by another any gate, fence, railing, tree, brush or vine or any property whatsoever, or to deface, mutilate or injure the same.

### Sec. 10-1-3 Deposits of Injurious Material on Thoroughfares

It is unlawful for any person, either willfully and maliciously or carelessly and negligently, to drop, throw, place or scatter upon any street, alley, sidewalk or public place in the town any nails, tacks, broken glass, glass bottles or any instrument or thing whatsoever of such nature as to be capable of injuring persons or property.

### Sec. 10-1-4 Excavations to be Covered

**A.** It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the town without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation during the day.

**B.** It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet in depth on any unenclosed lot without providing substantial curbing, covering or protection of such excavation.

### Sec. 10-1-5 Explosives

It is unlawful for any person within the limits of the town to blast or use powder, fireworks or other explosives without a permit in writing from the chief of police.

### Sec. 10-1-6 False or Misleading Reports to Police

It is unlawful for any person willfully to make to the police department of the town any false, fraudulent, misleading or unfounded report or statement, or willfully to misrepresent any fact for the purpose of interfering with the operation of the police department or with the

intention of misleading any police officer.

### Sec. 10-1-7 Fences; Barbed Wire and Electric

It is unlawful for any person to erect or maintain within the town any electric fence or any fence constructed in whole or in part of barbed wire. Any such fence is a public nuisance and subject to abatement by order of the town court.

### Sec. 10-1-8 Furnishing Weapons and Other Articles to Prisoners

It is unlawful for any person to furnish or attempt to furnish or take into jail or to deliver or attempt to deliver to any prisoner therein confined, or in the custody of any officer, any weapon, tool, intoxicating liquors, drug or other article.

10-1-9 Offenses 10-1-12

### Sec. 10-1-9 Littering

It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds or church grounds or upon any private property not owned by such person.

### Sec. 10-1-10 Minors

- A.** It is unlawful for any person seventeen years old or under to idle or loiter upon the streets or public places of the town between the hours of nine o'clock p.m. and six o'clock a.m. Sunday through Thursday and between the hours of ten o'clock p.m. and six o'clock a.m. on Friday and Saturday unless such person is accompanied by a parent, guardian or some person of lawful age having legal custody of such person.
- B.** It is unlawful for any parent, guardian or other adult person having the care and custody of such person to encourage or allow such person to idle or loiter upon the streets or public places between the hours of nine o'clock p.m. and six o'clock a.m. on Sunday through Thursday and between the hours of ten o'clock p.m. and six o'clock a.m. on Friday and Saturday unless accompanied by such parent or guardian.
- C.** The provisions of this section shall not apply when the person is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the person.

### Sec. 10-1-11 Noise

- A.** It is hereby declared to be a public nuisance and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by Individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet or otherwise interfere with or annoy the comfortable enjoyment of life or property of any considerable number of persons in the neighborhood and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- B.** It is unlawful to play, operate or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the chief of police to operate any such vehicle so equipped.
- C.** It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.

### Sec. 10-1-12 Obstruction of Streets

It is unlawful for any person to obstruct any public street, alley, sidewalk or park or other public grounds within the town by committing any act or doing anything which is injurious to the health, indecent or offensive to the

10-1-12 Offenses 10-1-19

senses, or to do in or upon any such streets, alleys, sidewalks, parks or other public grounds, any act or thing which is an obstruction or interference to the free use of property or with any business lawfully conducted by anyone, in or upon or facing or fronting on any of such streets, alleys, sidewalks, parks or other public grounds in the Town.

### Sec. 10-1-13 Obstruction of View

It is unlawful for any person to maintain or allow any tree, hedge, billboard or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

### Sec. 10-1-14 Offensive Business

It is unlawful for any person to establish or maintain any slaughter-house or make a practice of slaughtering cattle, hogs, sheep or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain or carry on any other business or occupation offensive to the senses or prejudicial to the public health within the limits of the town.

### Sec. 10-1-15 Offensive Premises

It is unlawful for any person to suffer or permit any premises belonging to or occupied by him, or any cellar, privy, vault, pool, sewer or private drain therein to become nauseous, foul or offensive to the senses or prejudicial to the public health or comfort.

### Sec. 10-1-16 Prostitution

It is unlawful for any person to practice prostitution or to solicit any person to visit or patronize a prostitute or place of prostitution.

### Sec. 10-1-17 Searchlights

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

### Sec. 10-1-18 Signs and Banners

It is unlawful for any person to place any banner or sign upon any street light pole, traffic signal pole or utility pole within the town without first obtaining authorization from the council.

10-1-19 Offenses 10-1-21

### Sec. 10-1-19 Spitting

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

### Sec. 10-1-20 Water-Flow upon Streets

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

### Sec. 10-1-21 Weapons

- A.** It is unlawful for any person within the limits of the town to fire or discharge any firearm, BB gun, air gun, pellet gun, dart gun, slingshot, gas-operated gun or other similar gun or instrument.
- B.** The prohibitions of the preceding subsection shall not apply to the use of any such gun or instrument by:
- 1.** A law enforcement officer or other duly authorized public official or employee in the performance of any official duty.
  - 2.** Any person to whom a special permit or authority is issued by the chief of police of the town for the use of such gun or instrument for a valid and proper purpose and for use in a manner not likely to harm any person, animal or property.
  - 3.** Any person when used in necessary self defense, in defense of property or person in a manner authorized by the laws of the state under or within rights guaranteed by the constitution of the state or the United States of America.
  - 4.** Any person when on a properly supervised range or in an area recommended as a hunting area by the Arizona game and fish department which has been approved and posted by the chief of police.
- C.** It is unlawful for any person, except a peace officer in actual service and discharge of his duty, to have on or about his person a concealed weapon.
- 1.** “Weapon”, as used in this section, means anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term “weapon” includes a firearm which is not loaded or lacks a clip or other component to render it immediately operable, and components which can readily be assembled into a weapon.  
10-1-21 Offenses 10-1-21
  - 2.** A weapon is not a concealed weapon as used in this section if:
    - a.** It is carried in a belt holster which holster is wholly or partially visible, or is carried in a scabbard or case designed for carrying weapons which scabbard or case is wholly or partially visible.
    - b.** It is located in a closed trunk, luggage or glove compartment of a motor vehicle.
- D.** It is unlawful for any person to recklessly or carelessly handle a weapon.
- E.** Any person other than a peace officer on duty carrying a weapon, upon entering any public place or attending a public event, may be required by the operator of the establishment or the sponsor of the event to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event.
- F.** It is unlawful for any person to sell or give to a person under the age of eighteen years, without written consent of the person's parent or legal guardian, a weapon, ammunition or toy pistol by which dangerous and explosive substances may be discharged.

Chapter 11 Traffic

**Chapter 11 Traffic**

**Article 11-1 ADMINISTRATION**

11-1-1	Duty of Police Department
11-1-2	Records of Traffic Violations
11-1-3	Police Department to Investigate Accidents
11-1-4	Traffic Accident Studies
11-1-5	Traffic Accident Reports

**Sec. 11-1-1 Duty of Police Department**

**A.** It shall be the duty of the police department under the direction of the chief of police to provide for the enforcement of the street traffic regulations of the town and all of the state vehicle laws applicable to street traffic in the town, to make arrests when authorized and to issue civil citations when authorized, to investigate accidents and to assist in developing ways and means to improve traffic conditions and to carry out all duties especially imposed upon the police department by this chapter.

**B.** Any peace officer or duly authorized agent of the Town of Superior may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of the traffic code, and to serve a copy of the traffic complaint for any alleged civil or criminal violation of said articles.

**Sec. 11-1-2 Records of Traffic Violations**

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

**Sec. 11-1-3 Police Department to Investigate Accidents**

It shall be the duty of the police department to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

**Sec. 11-1-4 Traffic Accident Studies**

Whenever the accidents at any particular location become numerous the police chief shall conduct studies of such accidents and determine remedial measures.

11-1-5 Offenses 11-2-3

**Sec. 11-1-5 Traffic Accident Reports**

- A.** The police department shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location.
- B.** The police department shall receive and properly file all accident reports made to it under state law or under any law of the town, but all such accident reports made by drivers shall be for the confidential use of the town. No such report shall be admissible in any civil or criminal proceeding other than upon request of any person making such report or upon request of the court having jurisdiction, to prove a compliance with the laws requiring the making of any such report.

**Article 11-2 TRAFFIC CONTROL**

- 11-2-1 Directing Traffic
- 11-2-2 Obedience to Traffic Regulations
- 11-2-3 Use of Coasters, Roller Skates and
- 11-2-4 Traffic Control Devices
- 11-2-5 Authority to Designate Crosswalks, and Mark Traffic Lanes
- 11-2-6 Authority to Place and Obedience to Turning Markers
- 11-2-7 Authority to Place and Obedience to Restricted Turn
- 11-2-8 Limitations on Turning Around
- 11-2-8 One-way Streets and Alleys
- 11-2-9 Regulation of Traffic at Intersections
- 11-2-10 Drivers to Obey Signs
- 11-2-11 Processions

**Sec. 11-2-1 Directing Traffic**

- A.** Officers of the police department are hereby authorized to direct all traffic by voice, hand or signal.
- B.** Officers of the fire department, when at the scene of a fire, may direct or assist police officers in directing traffic thereat or in the

immediate vicinity.

### Sec. 11-2-2 Obedience to Traffic Regulations

It is unlawful for any person to do any act forbidden or fail to perform any act required by this chapter. It is unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of a police officer or of any fire department official.

### Sec. 11-2-3 Use of Coasters, Roller Skates and Similar Devices Restricted

It is unlawful for any person upon roller skates or riding any coaster, toy vehicle or similar device to go upon any roadway except while crossing a street on a crosswalk and, when crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

#### 11-2-4 Offenses 11-2-7

### Sec. 11-2-4 Traffic Control Devices

- A.** The police department, with the approval of the council, shall place and maintain traffic control devices, signs and signals when and as required under the traffic regulations of the town to make effective the provisions of said regulations, and may place and maintain such additional traffic control devices as may be deemed necessary to regulate, guide or warn traffic under the traffic laws of the town or under state law.
- B.** The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic regulations of the town unless otherwise directed by a police officer, subject to the exceptions granted in this chapter or by state law.

### Sec. 11-2-5 Authority to Designate Crosswalks, Establish Safety Zones and Mark Traffic Lanes

The police department is hereby authorized, on approval by the council:

- A.** To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway, and at such other places as may be deemed necessary.
- B.** To establish safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians.
- C.** To mark lanes for traffic on street pavements at such places as may be deemed advisable consistent with the traffic laws of the town.

### Sec. 11-2-6 Authority to Place and Obedience to Turning Markers

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

### Sec. 11-2-7 Authority to Place and Obedience to Restricted Turn Signs

- A.** The police department, on approval by the council, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or such signs may be removed when such turns are permitted.

- B.** Whenever authorized signs are erected indicating that no right or left or u-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

11-2-8 Offenses 11-2-12

### Sec. 11-2-8 Limitations on Turning Around

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

### Sec. 11-2-9 One-Way Streets and Alleys

- A.** The council shall, by resolution, designate any streets or alleys which are to be limited to one-way traffic.
- B.** When any resolution of the council designates any one-way street or alley, the police department shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

### Sec. 11-2-10 Regulation of Traffic at Intersections

- A.** The council shall by resolution designate through streets, intersections where stops are required, and intersections where vehicles shall yield the right of way.
- B.** When any resolution of the council shall designate any through street or intersection where vehicles are to stop or yield the right of way, the police department shall erect and maintain the appropriate signs at every location where a vehicle must stop or yield the right of way.

### Sec. 11-2-11 Drivers to Obey Signs

Whenever traffic signs are erected as provided in this chapter, every driver of a vehicle shall obey such signs unless directed to proceed by a police officer or a traffic control signal. No driver shall drive upon or through any private property such as an oil station, vacant lot, or similar property to avoid obedience to any regulation included in this chapter.

### Sec. 11-2-12 Processions

- A.** No procession or parade, except funeral processions, shall be held without first securing a permit from the police chief, and all such requests for permits shall state the time, place of formation, proposed line of march, destination and such other information as the police chief may request.
- B.** A funeral procession composed of a procession of vehicles shall be identified by such methods as may be determined and designated by the police chief.
- C.** No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic control signals or a police officer.

11-2-12 Offenses 11-3-4

- D.** Each driver in a funeral or other procession shall drive as near to the right hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

Article 11-3 PARKING

- 11-3-1 Method of Parking
- 11-3-2 Blocking Traffic
- 11-3-3 Parking Adjacent to Schools
- 11-3-4 Authority to Erect Signs Restricting Parking
- 11-3-5 Parking Vehicles on Sidewalks
- 11-3-6 Abandoned Vehicles

Sec. 11-3-1 Method of Parking

Except as otherwise provided by resolution of the council, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right hand wheels of such vehicle parallel to and within eighteen inches of the right hand curb.

Sec. 11-3-2 Blocking Traffic

**A.** It is unlawful for any person to stop, stand or park any motor vehicle or other vehicle upon a street in the town in such manner or under such conditions as to leave available less than twenty feet of the width of the roadway for the free movement of vehicular traffic, except that a person may stop temporarily, in the actual loading or unloading of passengers or, when necessary, in the observance of traffic signs or signals of a police officer.

**B.** It is unlawful for any person to park a motor vehicle or other vehicle within an alley or entrance to a private driveway except for the loading or unloading of materials, and not then unless such loading or unloading can be accomplished without blocking the alley to the free movement of vehicular traffic.

Sec. 11-3-3 Parking Adjacent to Schools

When signs are erected indicating no parking on that side of the street adjacent to any school property, no person shall park a vehicle in any such designated place for one hour before school opens until one hour after school closes on any school day.

Sec. 11-3-4 Authority to Erect Signs Restricting Parking

The police department, upon approval by the council, may erect signs requiring parking at an angle to the curb, allowing parking on the left hand curb on one-way streets, notifying drivers that parking is prohibited and restricting parking in any way that may be necessary. When signs have been erected as authorized by this section, it is unlawful for any person to stop or stand a vehicle in disobedience to such parking restrictions.

11-3-5 Offenses 11-4-1

Sec. 11-3-5 Parking Vehicles on Sidewalks

It is unlawful for any person to park any vehicle, whether in usable condition or not, or for an owner to permit his vehicle to be parked upon any sidewalk in the town.

Sec. 11-3-6 Loading Zones

In the following described locations within the Town limits of the Town of Superior it shall be unlawful for the driver of a vehicle to stand

a passenger vehicle for a period of time longer than is necessary for the loading or unloading of passengers, not to exceed three minutes, and for the driver to stand any freight carrying vehicles for a period of time longer than is necessary to load, unload and deliver materials, not to exceed one hour. Said parking shall be unlawful in the following described areas:

- a. All areas designated “loading zone” by the appropriate signs or yellow painted curbing.
- b. The alleyway which lies between Main Street and Lime Street and is bordered by High School Avenue on the north and Stansberry on the south.

### Article 11-4 ABANDONED VEHICLES

11-4-1	Definitions
11-4-2	Unsheltered storage a nuisance
11-4-3	Abatement responsibility
11-4-4	Notice of removal by Town-Contents
11-4-5	Notice of removal by Town -Service
11-4-6	Notice of removal by Town-Appeal
11-4-7	Removal and disposal by Town authorized
11-4-8	Appraisal of vehicle
11-4-9	Chief of police vehicle removal authority
11-4-10	Violation-Penalty

#### Sec. 11-4-1 Definitions

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this chapter:

- A. “Abandoned vehicle”** means a vehicle or any major portion thereof, which is incapable of movement under its own power and will remain so without repair and/or reconstruction. It shall also mean a vehicle being repaired when such repairs take in excess of thirty days.
- B. “Private property”** means land owned by any person, firm, partnership, or corporation other than the United States, the State of Arizona, or Town of Superior.
- C. “Storage”** means the presence or location of abandoned vehicles.
- D. “Unsheltered”** means outside a carport, garage or other building; or outside the confines of a suitably fenced area allowing the vehicle to be visible from beyond the lot boundaries.

#### 11-4-1 Offenses 11-4-5

- E. “Vehicle”** means a device in1 upon, or by which any person or property is or may be transported or drawn upon a public right-of-way, which is subject to registration under the provisions of Arizona Law or would be subject to said registration if operable excepting devices moved by human power of used exclusively upon stationary rails or tracks.

#### Sec. 11-4-2 Unsheltered Storage a nuisance

Unsheltered storage of an abandoned vehicle for a period of thirty days or more on any private property within the corporate limits of the Town of Superior is declared to be a nuisance and dangerous to the public health, safety and welfare. Pursuant to the provisions of A.R.S. § 28-1408, said vehicles may be disposed of by the Town as provided in Title 28, Chapter 8, Article 5 of the Arizona Revised Statutes and the provisions of this section. Vehicles stored and kept as stock in trade by a regularly licensed and established new or used car dealership or by a regularly licensed and established junkyard or wrecking yard are exempt from the provisions of this chapter.

#### Sec. 11-4-3 Abatement responsibility

The owner, owners, tenants, lessees and/or other occupants of any private property within the corporate limits of the Town of Superior upon which storage of an abandoned vehicle is made as described in the preceding subsection and the owner or owners of such abandoned

vehicle involved in such storage, shall jointly and severally abate said nuisance.

#### Sec. 11-4-4 Notice of removal by Town -- Contents

Arty owner, tenant, lessee, occupant or other person who fails, neglects or refuses to abate such nuisance by removal of the offending abandoned vehicle or vehicles shall be given written notice by the Chief of Police or Town Clerk to abate such nuisance by removal of the offending abandoned vehicle or vehicles within fifteen days from the date the notice is received by him and prior to the date of compliance on the notice. Such notice shall be received not less than fifteen days before the date set thereon f or compliance, and shall contain a statement that unless the person responsible for said abandoned vehicle or vehicles complies therewith within fifteen days from the date such notice is received, the Town will remove such abandoned vehicle or vehicles.

#### Sec. 11-4-5 Notice of removal by Town -- Service

The written notice shall be personally served on the owner or person controlling such abandoned vehicle or vehicles by a police officer of the Town of Superior in the manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such property at his last known address by certified or registered mail or at the address to which the tax bill for the property was last mailed. If the owner or person responsible for the nuisance does not reside on such property, a duplicate notice shall also be sent to him by certified or registered mail at his last known address, if an address for him is known. The notice shall also be placed upon the offending vehicle.

11-4-6 Offenses 11-4-5

#### Sec. 11-4-6 Notice of removal by Town-Appeal

Prior to the date set for compliance on the notice, the owner or person responsible for maintaining the vehicle may appeal in writing to the Town Clerk, who shall within five days thereafter, set a date for a hearing before the Town Council. Such hearing shall be set for a date not more than thirty days after the receipt by the Clerk of the written appeal, and written notice of the date, time and place set for such hearing shall be mailed to the appealing party not less than ten days prior to the date set for such hearing. At such hearing, the Town Council may determine that no nuisance in fact exists, or may allow additional time for abatement of the nuisance, or may deny all relief and abate the nuisance pursuant to the provisions of **Section 11-4-7**.

#### Sec. 11-4-7 Removal and Disposal by Town

When any such owner, tenant, lessee, occupant or other person to whom notice, as aforesaid, has been given, on or before the date of compliance on the notice, or within such further time as may have been granted by the Town Council on appeal, fails, neglects or refuses to abate such nuisance by removing the abandoned vehicle or vehicles, the Chief of Police or Town Clerk is authorized and directed to remove said abandoned vehicle or vehicles from said premises, and to dispose of the same according to the provisions of Title 28, Chapter 8, Article 5, Arizona Revised Statutes relating to abandoned vehicles, including a report to the Assistant Director of the Department of Transportation.

#### Sec. 11-4-8 Appraisal of vehicle

Pursuant to Arizona Revised Statutes 28-1401.01, the Chief of Police shall designate one or more police officers to make appraisals of all abandoned vehicles, and shall cause an appraisal to be made by one of such officers within five days from the date that the abandoned vehicle or vehicles are directed to be removed from the premises pursuant to the provisions of **Section 11-4-7**. If an abandoned vehicle is appraised at a value not to exceed one hundred dollars, the chief of police shall cause said abandoned vehicle to be disposed of pursuant to the provisions of Arizona Revised Statutes 5 28-1409. If an abandoned vehicle is appraised at a value of more than one hundred dollars, the Chief of Police shall cause such abandoned vehicle to be removed by calling a tow-truck arid delivering custody of the vehicle to the operator of such tow-truck, pursuant to the rules and regulations of the police department.

**Sec. 11-4-9 Chief of police vehicle removal authority**

The Chief of Police is authorized and directed to cause abandoned vehicles as defined in Arizona Revised Statutes § 28-1401(1) to be removed, placed in custody and appraised as provided in Title 28, Chapter 8, Article 5, Arizona Revised Statutes, relating to abandoned vehicle. The Chief of Police shall cause such abandoned vehicles to be removed by calling a tow-truck and delivering custody to the operator thereof, pursuant to the rules and regulations of the police department. Such abandoned vehicles may be removed to the Town yard or other holding area and stored until all applicable notice requirements are met.

**Sec. 11-4-10 Violation-Penalty**

**(A)** Any person, firm or corporation who fails, neglects or refuses to abate the nuisance in the preceding sections, after notice as provided herein, shall be guilty of a class (3) misdemeanor and upon conviction, shall

11-4-10 Offenses 11-5-3

be punished by a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed thirty days in the Town Jail or by both such fine and imprisonment. Each day a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter. Further, the Chief of Police is expressly authorized to file complaints in the magistrate court for violations of this section and nothing contained in this article shall be construed as requiring the Town or its representatives to abate said nuisance.

**(B)** The Magistrate Court shall also be authorized to order anyone violating any of the provisions of this article to pay all costs incurred by the Town abating the nuisance, and said order shall be enforceable by contempt or as otherwise provided in Arizona Revised Statutes.

**Article 11-5 STREET EXCAVATORS**

- 11-5-1 Permit Required
- 11-5-2 Application for Permit
- 11-5-3 Schedule of Fees
- 11-5-4 Permit Provisions
- 11-5-5 Exemption of Companies with Franchise Agreement
- 11-5-6 Excavation Standards

**Sec. 11-5-1 Permit Required**

It is unlawful for any person to cut, open or remove any pavement or dig upon any street, sidewalk, alley, or public place in the Town without first obtaining a permit from the Town for that purpose.

**Sec. 11-5-2 Application for Permit**

Any person desiring to cut, open or remove the pavement or dig upon any street, sidewalk, alley, or public place in the Town shall make application to the Public Works Supervisor or Street Superintendent for a permit to do such work, stating the location, purpose, and approximate extent thereof. A separate application shall be made for each place where it is proposed to cut the pavement or dig upon such street, sidewalk, alley, or public place. Upon receipt of such application, the Public Works Supervisor or Street Superintendent shall issue a permit therefore if the proposed work does not conflict with this code, or any ordinance or regulation of the Town and the applicant has paid the required fee therefore.

**Sec. 11-5-3 Schedule of Fees**

The Public Works Supervisor and the Street Superintendent shall determine a schedule of fees for permits issued under this Article. Said fee schedule shall be approved by the Council for the Town of Superior and in setting said fees, they shall consider the risk to the Town of Superior and the possible damage to the street, sidewalk, alley, or public place that may result from the excavation or digging.

## 11-5-4 Offenses 11-5-3

**Sec. 11-5-4 Permit Provisions**

Each permit issued by the Town for cutting or removing the pavement or digging upon any street, sidewalk, alley, or public place, shall provide that the person, to whom such permit is issued, shall save and hold the Town harmless from any claim for injury or damages resulting from the performance or maintenance of such work, and shall, during the progress of such work, keep and maintain proper barriers and lights for the protection of the public in the use of such streets, sidewalks, alleys, and public places.

**11-5-5 Exemption of Companies with Franchise Agreement**

Notwithstanding the provisions of **Sections 11-5-1** through 4 of this Article, any person or company holding a valid franchise agreement with the Town of Superior shall comply with the provisions of that agreement and shall not be required to obtain a permit for excavation under this Article, however, any such excavation shall be made in compliance with the excavation standards contained in **Section 11-5-6** of this Article and in compliance with the appropriate franchise agreement.

**11-5-6 Excavation Standards**

Any person cutting or removing any pavement or digging upon the streets, sidewalks, alleys, or public places of the Town shall at all times protect the public using the same against injury or damage caused by or arising out of the cutting, removing and maintaining any opening in such pavement, and shall erect and maintain at such places at all times, proper barriers and lights. All work shall be completed and performed in such manner as to avoid creating inconvenience to the public in the use of such streets, sidewalks, alleys, and public places. Upon completion of the work requiring the cutting or removing of such pavement or digging, all openings therein shall be refilled and repaved and placed on level with the surrounding portions thereof and shall be placed in as good condition as before being cut. The responsible party shall remove all rock, debris, and other material, and leave the same clean and ready for immediate use. All work shall be done under the supervision and direction of the Street Superintendent for the Town of Superior.

## Chapter 12 Property and Parks

**CHAPTER 12 PROPERTY AND PARKS****Article 12-1 SUPERIOR PROPERTY AND PARK RULES AND REGULATIONS**

12-1-1	Definitions
12-1-2	Town permit for consumption of spirituous liquor on Town property, cancellation
12-1-3	Compliance with Rules and Regulations
12-1-4	Vandalism
12-1-5	Use of Facilities, Payment
12-1-6	Fires
12-1-7	Vehicles, Speed Limits and Parking
12-1-8	Rubbish and Litter
12-1-9	Pets and Other Animals
12-1- 10	Fireworks and Explosives
12-1-11	Soliciting
12-1-12	Noise and Nuisance
12-1-13	Special Events
12-1-14	Contracts - Admission
12-1- 15	Rules, Regulations and Fees by Resolution
12-1-16	Penalties
12-1-17	Miscellaneous

### Sec. 12-1-1 Definitions

In this chapter, unless the context otherwise required:

1. **“Spirituous Liquor”** includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, port, ale, beer any malt liquor, malt beverage, absinthe or compound, mixture of any of them, or of any of them with any other vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume or such other beverage which may be classified as a spirituous liquor under Title 4 of Arizona Revised Statutes
2. **“Town” or “Department”** means the Town of Superior or its duly authorized department head.
3. **“Manager” or “Director”** means the Town Manager or other duly authorized agent of the Town.
4. **“Permittee”** means any person to whom a permit for use of Town facilities has been issued by the Manager.
5. **“Parks”** means any Town park area owned or controlled by the Town of Superior or other additional property as may be designated by the Mayor and Council by Resolution and so posted.

### 12-1-2 Offenses 12-1-5

#### Sec. 12-1-2 Permit for consumption of spirituous liquor on Town property or parks, cancellation

- A. In addition to any other permit required there shall be required, prior to the consumption of spirituous liquor within the boundaries of any Town park or property, a non-transferable permit authorizing such consumption.
- B. The Manager may issue said permit upon receipt of a completed application requesting such permit and payment of any applicable fee. The application shall contain the applicant’s name, address, telephone number and age. The Manager may deny said permit for cause.
- C. Use of glass containers is prohibited within the boundaries of any Town park.
- D. Permit holder must retain the permit in is/her possession at all times while on Town property and make same available for inspection upon request by Town officials.

- E.** Permittee must be of legal age and will be responsible insuring that anyone consuming alcohol is of legal age.
- F.** Permittee will be responsible for any and all property resulting from facility use allowed issuance of a permit.

### Sec. 12-1-3 Compliance with Rules and Regulations

Permission to enter, occupy, or otherwise utilize any facility, grounds roadway, trail or waterway on or within the boundaries of any park or recreation area under control of the Town shall be conditioned upon compliance with all laws, rules, regulations and orders, and any person violating such laws, rules, regulations or orders, may be cited in a court with proper jurisdiction by a Town law enforcement officer, any peace officer within his jurisdiction, or any person lawfully authorized by the Town of Superior. Such person may be required to leave the park or recreation area or any portion thereof.

### Sec. 12-1-4 Vandalism

No person shall disturb, deface, injure, destroy, or remove any building, sign, marker, facility, or any other structure, tree, shrub, fruit, wild flower, or any object of archaeological, geological, or historical significance located on Town property or within any park located within the Town.

### Sec. 12-1-5 Use of Facilities, Payment

No person shall use or occupy facilities of the Town for which a use fee has been lawfully established and posted unless the fee has been paid to the Town. Permits may be obtained at Superior Town Hall.

12-1-6 Offenses 12-1-9

### Sec. 12-1-6 Fires

**A.** No person shall build, ignite, or maintain any outdoor fires of any kind or character or for any purpose whatsoever in or upon any park area, except by the authority of the director or his agent. Such an authorization shall incorporate such terms and conditions which will reasonably safeguard public safety and property. No authorization will be required for outdoor fires within inhabited premises or designated park sites where such fires are built in a permanent barbecue, outdoor fireplace, incinerator, or grill. Regardless of permit, however, no person shall build, ignite, or maintain any outdoor fire in or upon any Town property or park under the following conditions:

1. When any high wind is blowing
2. When there is no person aged seventeen (17) or over present at all times to watch and who is capable of tending such fires.
3. Such times as public announcement is made that there shall be no open burning.
4. No person shall use any permanent barbecue, portable barbecue, outdoor fireplace or grill for the disposal of rubbish, trash, or combustible waste material.

### Sec. 12-1-7 Vehicles, Speed Limits and Parking

**A.** Motorized vehicles, including motorcycles and “off-road” vehicles, shall be operated only on maintained roadways, except as otherwise provided and posted in certain areas, and in all cases the operator shall comply with the Arizona Motor Vehicle code, as provided under Title 28, A.R.S., while within the boundaries of any park. Only licensed vehicles will be allowed within park boundaries. The Manager/Director may further restrict and post certain areas in the park system to protect life and property.

**B.** Parking in any non-designated area, or on the roadway is prohibited unless posted for parking. Vehicles parked in any unauthorized

parking area, or vehicles parked in such a manner as to pose a danger to others, may be removed at the owners expense.

### Sec. 12-1-8 Rubbish and Litter

- A.** All garbage, rubbish, cans, bottles, and other litter shall be disposed of in receptacles designated for such purposes, or carried away and lawfully disposed of when leaving Town property or park.
- B.** Draining or dumping wastes or refuse from any trailer, camper or other vehicles is prohibited.
- C.** Using public park refuse containers to dispose of household or commercial garbage brought as such from private property is prohibited.

### Sec. 12-1-9 Pets and other Animals

Dogs, cats and other domestic pets shall be kept under physical restraint or on a leash not longer than six (6) feet in length while in the confines of the park. In the interest of public health and safety, the manager/Director may designate certain areas as closed to all pets. Riding horses shall be confined to bridal paths or other areas specifically designated for riding purposes. No animals shall be allowed inside any building owned by the Town unless required due to handicap of the owner.

12-1-10 Offenses 12-1-13

### Sec. 12-1-10 Fireworks and Explosives

No person shall possess fireworks or explosives or devices for such use of any kind within the park system except under special permit for fireworks display issued by the Director/Manager, subject to compliance with all applicable municipal, county, state or federal ordinances, rules and regulations.

### Sec. 12-1-11 Soliciting

No person shall solicit funds, donations, sell or offer for sale any food, goods, wares, merchandise or liquids or distribute circulars in the park system, except by written concession granted by the town.

### Sec. 12-1-12 Noise and Nuisance

- A.** No person shall cause or permit any loud noise or sound which creates a nuisance. For the purpose of this section, a nuisance by noise shall be defined as any sound which in volume or character would reasonably tend to disturb the peace of people who are legally occupying other portions of the park or residence of neighborhoods adjacent to the park or other Town property being utilized.
- B.** Any complaint by any person, a police officer shall investigate and determine if a noise nuisance exists as defined above. If the officer determines that a noise Nuisance does exist, he shall inform the permittee and order him or her to correct the situation so that the nuisance is abated. If the permittee fails to abate the nuisance within a reasonable time and or further complaints are received, the police officer may, in his discretion, immediately cancel the permit and order the permittee and his employees to vacate the premises.
- C.** No person shall use or cause to be used a loudspeaker system or any other means of amplified sound without a special permit issued by the manager/director.

### Sec. 12-1-13 Special events - Requirements for Holding

- A.** Sports events, music festivals, pageants, re-enactments, entertainments, public assemblies, demonstrations and the like, characterized as public spectator attractions, are prohibited unless given written permission and scheduled by the Town's agents. Such permits may be issued only after a finding that the issuance of such permit will not be inconsistent with the purposes for which the property or park is established and maintained and will cause the minimum possible interference with use of the area by the general public.

**B.** Any reservation applied for regarding use of a Town facility that will potentially exceed the posted capacity of the building or park as it relates to the number of people and parking facilities shall be issued only by the Town Council in a regularly scheduled meeting. Any applicant desiring to conduct a special event that will exceed posted limitations of capacity for parking or people for a particular facility must present the following facts and information to the town thirty (30) calendar days prior to the event:

**1.** The name, age, residence, and mailing address of person making said application, if the application is made by a partnership, the names and addresses of partners must appear. Where the applicant is corporation, the application must be signed by president and secretary thereof and must contain addresses of said corporate officers and a certified copy of the articles of incorporation submitted with application.

#### 12-1-13 Offenses 12-1-17

**2.** An estimate of the number of customers, spectators, participants and other persons intended, calculated, or expected to attend the event for each day it is conducted.

**3.** A map or sketch of the area to be used showing the location of the facility in relation to surrounding properties, the accesses to the property and the location of any proposed facilities, parking area, staffing, and etc.

### Sec. 12-1-14 Contracts – Admission

Prior to obtaining any reservation for use of the fee area whereby the applicant desires to collect fees and charges, the applicant must enter into a contract with the Town in relation to loss, damage, liability, warranties, and indemnity. This contract must be signed by the applicant and certified by a notary public. The fee schedule will be in accordance with the fee schedule approved by the town council by resolution from time to time. It shall be unlawful to use said facilities without the applicable contract.

### Sec. 12-1-15 Rules, Regulations and Fees by Resolution

The Manager or Director of parks and recreation shall recommend and enforce other rules and regulations, including fees or charges, as are approved by resolution of the Council. Such rules, regulations and fees shall be enforceable as if fully contained herein.

### Sec. 12-1-16 Penalties

It shall be unlawful and a Class (3) misdemeanor for any person to enter, remain upon or use any park or facilities associated with the Town in violation of any of the provisions contained in this code or applicable resolution or rule. Punishment for conviction shall be a fine of not to exceed Five Hundred (\$500.00) Dollars, or imprisonment not to exceed thirty (30) days or both.

### Sec. 12-1-17 Miscellaneous

- A.** Facilities must be vacated by 10:00 p.m. or in accordance with Town curfew unless permission is granted by the Town Council.
- B.** No apparatus or equipment shall be moved into a Town facility without advance permission from the Manager/Director.
- C.** Overnight camping shall not be permitted in any Town park or Facility.