

CHAPTER 7 - BUILDING

Article 7-1 BUILDING SAFETY CODE

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

Section 7-1-1 Adoption of Building Codes

- A. The following uniform Codes are adopted as the Building Safety Code for the Town of Superior. Any reference to "International Code" herein includes the Codes listed herein.
1. International Building Code, (2006 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC).
 2. International Residential Code, (2006 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC).
 3. International Existing Building Code, (2006 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC).
 4. International Mechanical Code, (2006 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC).
 5. International Plumbing Code, (2006 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC).
 6. International Property Maintenance Code, (2006 edition), together with all appendices and supplements thereto, as published by the International Code Council (ICC).
 7. International Code Council Electrical Code – Administrative Provisions, (2006) edition, together with all appendices and supplements thereto, as published by the International Code Council (ICC)
 8. National Electrical Code (2002 Edition), together with its supplements, if any, published by National Fire Protection Association
 9. Uniform Housing Code (1994 Edition), together with its supplements, if any, published by the International Conference of Building officials.
 10. Uniform Swimming Pool, Spa and Hot Tub Code (2000 Edition), together with its supplements, if any, published by the International Association of Plumbing and Mechanical officials.
 11. Manufactured Home and Factory Built Building Installation Standards (Latest Edition), together with its supplements, if any, published by the Arizona Secretary of State.

12. City of Mesa Adobe Code (Latest Edition).

- B. This Chapter 7 shall be known as the Building Safety Code of the Town of Superior. Each of the 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.

Section 7-1-2 Rules and Definitions

- A. The following terms utilized in this Chapter shall be defined as provided in the Codes adopted pursuant to Article 7-1-1 of this Chapter, except as hereinafter provided:
1. The terms "City" or "Town" or "Municipality" as used in the Codes shall mean the incorporated area of the Town of Superior.
 2. The terms "Mayor", "Appointing Authority", "Governing Body", "Commission", or "Town Council" as used in the adopted Codes shall mean the Mayor and Council of the Town of Superior.
 3. The terms "Administrative Authority", "Building official", "Chief", or "Administrator", as used in the Codes, shall mean the Building Official of the Town of Superior.
 4. The terms "Other Code" or "Other Codes" as used in the International 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.
 5. The term "Appeals Board" shall mean a board appointed by the Council of the Town of Superior to rule on appeals filed under the provisions of this code.

Section 7-1-3 Local Amendments to Codes

- 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 adopted Codes. Should there be a conflict between the provisions of the adopted Codes and these amendments, these amendments shall control and be fully enforceable as other provisions of the Codes are enforceable.
1. The following amendments to the International Plumbing Code are adopted:
 - A. All connections made to Town sewer mains shall comply with Town requirements and all Federal, State, or Town regulations including, but not limited to, the standards of the Arizona Department of Environmental Quality.
 - B. Type "M" copper pipe shall not be utilized for water.
 - C. Fiber or tar and paper composition type sewer pipe shall not be

utilized for any part of a sewer system, drains, or plumbing.

- D. Glued P.V.C. pipe shall not be utilized inside residential and commercial structures for water lines.

2. The following amendments to the 2002 edition of the National Electrical Code are adopted:

- A. The minimum wire size allowed for construction or remodeling shall be 7 gauge.
- B. Rigid metallic conduit, metallic tubing, flexible metal conduit, flexible metallic tubing, intermediate metal conduit, liquid-tight flexible metal conduit, and metallic wire-ways shall be used for all electrical work in any building used or intended to be used for Commercial or Industrial purposes.
- C. Non-metallic-sheathed cable, trade name "ROMEX" shall not be allowed in commercial or Industrial construction or reconstruction. This includes all structures located in commercially zoned areas except as allowed by the N.E.C. 2002 edition.
- D. The minimum size of meter loops remodeled shall be:
 - 1. Dwelling - 100 Ampere
 - 2. Commercial - 200 Ampere
 - 3. All New Construction requires 200 Ampere
- E. All grounds shall be in footing of new construction. Remodeled construction shall require five-eighths inch (5/8") by eight foot (8') copper clad rod, driven to ground level. Ground shall not be tied to present ground unless it is a system. Gas shall be bonded on house side of insulating coupling and water line and shall be a continuous bond.
- F. All buildings served with a meter loop shall have an outside means of main disconnect, no more than seven feet (7') from ground level.
- G. Should the power company request and complete electrical disconnection on any mobile, manufactured or trailer home or trailer space, said disconnection shall be processed by the Town as a meter removal and shall be subject to the fees, permits and restrictions as a new connection.

3. The following amendments to the International Building Codes are adopted

- A. On new and remodeled residential/commercial construction, exterior walls not constructed fully of block or metal shall be covered with 1/2" OSB or Plywood sheathing or other comparable

material authorized by the Building Official in writing.

- B. Section 903.2.7 entitled "Group R" is amended by the addition of the following language:

"Exception: Group R-3 fire areas under 5000 square feet."

4. The following amendments to the International Property Maintenance Code, (2006 edition) are hereby adopted:

Section 101.1. Insert: "Town of Superior."

Section 103.5. Insert: "\$50. per hour per employee."

Section 302.4. Insert: "10 inches."

Section 303.2. Insert: "This shall apply to house doors
where applicable."

Section 303.13. Insert: "Exterior windows shall also meet the
requirements of Section 9-4-8(A) 13."

Section 304.14. Insert: "May to October."

Section 602.3. Insert: "March to November."

Section 602.4. Insert: "November to March."

Article 7-2 ADMINISTRATION

- Section 7-2-1 Permit or License
- Section 7-2-2 Building Official
- Section 7-2-3 Rules and Regulations

Section 7-2-1 Permit or License

All officials and public employees of the Town vested with the duty or authority to issue permits or licenses shall comply with the provisions of this Chapter. 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 and no rights therein shall vest.

Section 7-2-2 Building Official

The Town Manager shall appoint the Building Official.

Section 7-2-3 Rules and Regulations

The Building Official may recommend rules and regulations to the Council from time to time for adoption in the interest or public safety, health and general welfare, consistent with and 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 Codes, or of violating accepted engineering practice involving public safety.

Article 7-3 BUILDING PERMITS

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

Section 7-3-1 Issuance of Permits

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

Section 7-3-2 Record Keeping

The Building Official shall keep careful and comprehensive records of applications for permits, permits issued, inspections made, 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 the state records retention law.

Section 7-3-3 Fees by Resolution

The Council shall, from time to time, by resolution, adopt or modify administrative fees arising under this Chapter.

Article 7-4 FAIR HOUSING

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| Section 7-4-1 | Declaration of Policy |
| Section 7-4-2 | Definitions |
| Section 7-4-3 | Enforcement Committee |
| Section 7-4-4 | Unlawful Practice |
| Section 7-4-5 | Exceptions |
| Section 7-4-6 | Procedure |
| Section 7-4-7 | Other Remedies |
| Section 7-4-8 | Penalties |
| Section 7-4-9 | Administration Provisions |
| Section 7-4-10 | Conciliation Agreement Violations |
| Section 7-4-11 | Power of Subpoena |

Section 7-4-1 Declaration of Policy

It is hereby declared to be the policy of the Town in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, sex, national origin, disability, familial status, or place of birth and, to that end, to prohibit discrimination in housing by any person.

Section 7-4-2 Definitions

Unless otherwise stated, the following words and phrases shall, for the purposes of this Article, have the following meanings:

- A. Real Property: Includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.
- B. Discrimination or Discriminatory Housing Practice: Any difference in treatment based upon race, color, religion, sex, national origin, disability, familial status or place of birth; or any act that is unlawful under this Article.
- C. Person: Shall include any individual and a group of any one or more persons such as but not limited to, labor unions, joint apprenticeship committees, partnerships, associations, corporations, unincorporated organization, mutual companies, joint stock companies, trusts, legal representative, trustees in bankruptcy, receivers, any individuals acting in a financial or representative capacity either appointed by a court or otherwise, the Town or any of its agencies, and any other legal governmental or commercial entity, as well as a natural person or persons. The term persons, when applied to any of the foregoing, includes members, representatives, officers and directors, agents and employees.
- D. Owner: Includes a lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.
- E. Financial Institution: Includes any person, as defined herein, engaged in the business of lending money or guaranteeing losses.
- F. Real Estate Broker or Real Estate Salesperson: Includes any individual, whether

licensed or not, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, exchanges, rents, or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds himself/herself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he/she undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or any individual employed by or acting on behalf of any of these.

G. Housing Accommodation or Dwelling:

1. Any parcel or parcels of real property or lands, or any interest therein, whether contiguous or noncontiguous, located in the Town of Superior used for the building or the placing of one or more housing or rooming units, owned by, or otherwise subject to the control of, one or more persons;
2. Any real property, or any interest therein, located in the Town of Superior;
3. Any single family dwelling or multiple family dwelling or trailer house or trailer space any portion thereof, including a housing unit or a rooming unit, or any interest therein, located in the Town of Superior, which is used or occupied, or intended, arranged, assigned or designated to be used or occupied, as the home, homesite, residence or sleeping place of one or more persons;
4. A single room, suite of rooms or apartments with or without cooking and kitchen facilities, occupied, or intended for occupancy as living quarters, by a person, by a family or by a group of persons living together.

Section 7-4-3 Enforcement Committee

- A. The Town of Superior, hereby establishes a Housing Committee appointed by the Mayor and Town Council, which shall consist of not less than three (3) nor more than five (5) members.
- B. Each Committee member shall serve for a term of one (1) year and until his/her successor is appointed. One of the members of the Committee shall be elected by the members of such Committee to be Chair of the Committee.
- C. All communications authorized or required to be lodged with a committee shall be furnished to the Chair of Committee, or, in his/her absence, any one of the Committee members.
- D. Any orders or findings issued by the Committee may be over the signature of any one of the members.
- E. A quorum of the Committee shall be necessary for the conducting of any vote. A quorum shall consist of a majority of the members of the Committee.
- F. A majority of the full Committee shall be required on any vote taken for any proposed

action to be effective.

- G. All findings or orders of the Committee shall be filed with the Town Attorney's Office and upon such filing shall be deemed public records of the Town.
- H. This Committee shall be considered to be a sub-committee of the Town of Superior and shall comply with the State of Arizona open meeting laws.

Section 7-4-4 Unlawful Practice

In connection with any of the transactions set forth in this Section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any housing accommodation, it shall be unlawful within the Town of Superior for a person, owner, financial institution, real estate broker or real estate salesperson, lessees, agents, trustees, mortgages, financial institutions, title companies or insurance companies, or any representative of the above, to:

- A. Refuse to sell, purchase, exchange, rent or lease, or deny to or withhold any housing accommodation from a person because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;
- B. To discriminate against a person in the terms, conditions or privileges of the sale, purchase, exchange, rental or lease of any housing accommodation, or in the furnishing of facilities of services in connection therewith because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;
- C. To refuse to receive or transmit a bona fide offer to sell, purchase, exchange, rent or lease any housing accommodation from or to a person because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;
- D. To refuse to negotiate for the sale, purchase, exchange, rental or lease of any housing accommodation to a person because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;
- E. To represent to a person that any housing accommodation is not available for inspection, sale, purchase, exchange, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation because of their race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;
- F. To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form or application for the sale, purchase, rental, exchange, rental, lease, or other transfers of interest in housing, or the extension of credit, loans, insurance or other services relating to the transfer of interest of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, exchange, rental, lease or other transfers of interest in housing, or the extension of credit, loans, insurance or other services relating to the transfer of interest of any housing accommodation, which expresses directly or indirectly any limitation, specification or discrimination as to race, color, religion, ancestry, national origin, sex, disability, familial status, or place of birth;

- G. To offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, exchange, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, exchange, rental or lease, or in the furnishing of facilities or services in connection therewith;
- H. To induce directly or indirectly, or attempt to induce indirectly or directly, the sale, purchase, exchange, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth in the area to be affected by such sale, purchase, exchange, rental or lease will or may result in either:
 - 1. The lowering of property values in the area; or
 - 2. An increase in criminal or antisocial behavior in the area; or
 - 3. A decline in the quality of schools serving the area.
- I. To make any misrepresentations concerning the listing for sale, purchase, exchange, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, exchange, rental or lease of any housing accommodation in any area in the Town of Superior for the purpose of including or attempting to induce any such listing or any of the above transactions; or
- J. To engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, exchange, rental or lease, or the listing for any of the above, of any housing accommodation; or
- K. To retaliate or discriminate in any manner against a person or persons because they have opposed a practice declared unlawful by this Article, or because they have filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this ordinance; or
- L. To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this Article; or to obstruct or prevent any person from complying with the provisions of this Article; or any order issued thereunder;
- M. By canvassing, to commit any unlawful practices prohibited by this Article;
- N. Otherwise to deny to, or withhold any housing accommodation from a person because of their race, color, religion, ancestry, national origin, disability, familial status, or place of birth;
- O. For any bank, building and loan association, firm or enterprise whose business consists in whole, or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person or persons applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against them in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth of such person or of any person associated with them in connection with such loan or other

financial assistance or the purpose of such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or give;

- P. To deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of such access, membership or participation, on account of race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth.
- Q. For any person to go upon the premises of another, for the purpose of abusing the occupants thereof by the use of language or conduct which reflects unfavorable on the occupant's race, color, religion, ancestry, sex, national origin, disability, familial status, or place of birth.
 - 1. The above Subsection "Q" shall not be a violation unless and until the Town Attorney has sent a prior written notice to the person charged with going upon the property of another and committing the above described acts, said notice advising the offending party that she/he is unwelcome on the occupant's property and that she/he may be charged under this Subsection if she/he, after receipt of the notice, commits acts which are in violation of this Subsection.
 - 2. This Subsection does not preclude the offending party from being charged with a violation of any offense that she/he might have committed not covered herein merely because the offending party did not receive written notice.

Section 7-4-5 Exceptions

This Article shall not apply to:

- A. A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color, sex, ancestry, national origin, disability, familial status, or place of birth.
- B. A private club, not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.
- C. Any single-family house sold or rented by an owner. Provided, that such private individual owner does not own more than three such single-family houses at any one time. Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who not the most recent resident of such house prior to such sale, the examination granted by this sub-Section shall apply only with respect to one such sale within any twenty four (24) month period. Provided further, that such bona fide private individual owner does

not own any interest in, nor is there owned or served on his/her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. Provided further, the sale or rental of any such single family house shall be excepted from the application of this ordinance only if such house is sold or rented:

1. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent. of any such broker, agent salesperson, or person, and
 2. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United State Code Section 3604(c) or of Section 7-4-4 of this Article; but nothing in this provision shall prohibit the use of attorney's escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.
- D. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his/her residence.

Section 7-4-6 Procedure

- A. Any person aggrieved by an unlawful practice prohibited by this Article may file a complaint with the Town Attorney, or the Housing Committee, within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than sixty (60) days after the alleged unlawful practice occurred. The Town Attorney, or the Housing Committee, or their duly authorized representative shall investigate each complaint and attempt to resolve each complaint. If the finding is made that an unlawful practice has been or is being committed, the Town Attorney or the Committee shall endeavor to eliminate the unlawful practice by conference, conciliation and persuasion. If the Town Attorney and the Committee fails thereby to eliminate such unlawful practices:
1. In the case of a violation of Section 7-4-4 (Q), the Town Attorney may issue an order to the violator within the aforesaid thirty day (30) period, to cease and desist from further violations of this Section and shall promptly mail a copy of such order to the violator; or
 2. In the case of a violation of any other provision of Section 7-4-4, the Town Attorney may file a criminal complaint for appropriate action.
- B. If the Town Attorney of the Committee finds that no unlawful practices has been or is being committed, a copy of such findings shall be promptly mailed to the grievant. The grievant shall thereafter have the right to request a complaint with the Town Attorney for appropriate action.
- C. If the Town Attorney or the Committee fails to file its findings or a statement setting forth valid reasons for not having done so within sixty '(60) days after a grievance is filed, the

grievant shall thereafter have the right to request a criminal complaint from the Town Attorney.

- D. If another grievance is filed against a person, after a cease and desist order pursuant to Section 7-4-6 (A) (1) of this Section has been issued by the Town Attorney against said person, and upon investigation, the Town Attorney or the Committee finds that such person has committed any further violation of this Code, a criminal complaint may be requested by the aggrieved person, the Town Attorney, or by the Committee.
- E. No criminal complaint for the enforcement of any provisions of this Section may be filed unless such filing is specifically authorized by this Section and by the Town attorney.

Section 7-4-7 Other Remedies

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he/she might otherwise be entitled, or from filing his/her complaint with any appropriate governmental agency.

Section 7-4-8 Penalties

Any person violating any provision of this Article shall, upon conviction thereof, be guilty of a civil offense punishable as provided in Section 1-5-1(A) of this Code, or to the full extent authorized by state or federal law, each day a violation continues shall be a separate offense. Any person violating any provision of this Article which is declared to be criminal or a misdemeanor shall, upon conviction therefore, be punished as provided in Section 1-5-1(B) of this Code.

Section 7-4-9 Administrative Provisions

The Town of Superior and the appropriate Committee thereof shall have the following powers:

- A. To make rules and regulations which promote the administration of and compliance with the provisions of this Article. Such rules and regulations to be effective upon their approval by the Superior Town Council.
- B. The Town Attorney is empowered to take all necessary action in the appropriate court to secure the production of all records, documents, or other evidence necessary to assist the housing Committee in carrying out the provision of this ordinance.

Section 7-4-10 Conciliation Agreement Violations

If the Town Attorney or Housing Committee and a person accused of violation of this Chapter reach agreement and execute a conciliation agreement, and such person shall then violate any terms and conditions of said conciliation agreement it shall be as if such agreement had never been executed. In such event, the Superior Town Attorney may file such misdemeanor charges under this Code, and further may take such other civil or criminal action as may be permitted under the Arizona Revised Statutes or this Code.

Section 7-4-11 Power of Subpoena

- A. The Town Attorney or the Housing committee may: subpoena witnesses at hearings and compel their attendance; administer oaths; take testimony of any person under oath and, when deemed necessary, record such testimony; and require the production for examination of books and papers relating to any matter before the Housing Committee. Failure to obey a subpoena issued pursuant to this Section shall constitute a contempt punishable upon action of the Town Attorney before the Magistrate or a Superior Court.
- B. Any person appearing pursuant to this Section shall have the right to be represented by legal counsel.

Article 7-5 FLOOD DAMAGE PREVENTION

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Section 7-5-1 Statutory Authorization

The Legislature of the State of Arizona has enabled the Town of Superior to adopt regulations in conformance with A.R.S. §48-3601 et. seq. which are designed to promote the public health, safety, and general welfare of its citizenry. The provisions of this Chapter are intended to assist Pinal County in carrying out the obligations of the County Flood Control District as provided in A.R.S. 48-3601 et. seq. Nothing contained in this Chapter shall be construed as an assumption of said County's Floodplain Management obligation.

Section 7-5-2 Finding of Fact

1. 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.
2. 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, cause damage in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood

loss.

Section 7-5-3 Statement of Purpose

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

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

Section 7-5-4 Methods of Reducing Flood Losses

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

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

divert flood waters or which may increase flood hazards in other areas.

Section 7-5-6 Definitions

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

1. Accessory Use: Means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
2. Alluvial fan flooding: Means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and, unpredictable flow paths
3. Apex: Means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
4. Appeal: Means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.
5. Area of shallow flooding: Means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
6. Area of special flood hazard: Means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. These areas are designated as Zone A, AO, AH, and A1-30 on the FIRM and other areas determined by the criteria adopted by the Director of Water Resources.
7. Backfill: Means the placement of fill material within a specified depression, hole or excavation pit below the surrounding adjacent ground level as a means of improving flood water conveyance or to restore the land to the natural contours existing prior to excavation.
8. Base flood: Means the flood having a one percent chance of being equaled or exceeded in any given year.
9. Basement: Means any area of the building having its floor subgrade (below ground level) on all sides.
10. 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.
11. Chief Executive Officer: Of the community ("CEO") means the official of the community who is charged with the authority to implement and administer laws, chapters and

regulations for that community.

12. Community: Means any state or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
13. 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.
14. 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, and storage of materials and equipment located within the area of special flood hazard.
15. Encroachment: Means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.
16. Erosion: Means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program. (See Flood-related erosion.)
17. Existing manufactured home park or subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed before the effective date of the floodplain management regulations adopted by the community.
18. Expansion to an existing manufactured home park or subdivision: Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
19. 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.
20. 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 or 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.
21. Flood Boundary and Floodway Map (FBFM): Means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has

delineated by the areas of special flood hazards and the floodway.

22. Flood Hazard Boundary Map (FHBM): Means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.
23. Flood Insurance Rate Map (FIRM): Means the most recent official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
24. Flood Insurance Study: Means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
25. Floodplain or flood-prone area: Means any land area susceptible to being inundated by water from any source - see "flooding".
26. Floodplain administrator: Is the individual appointed to administer and enforce the floodplain management regulations within the Town of Superior.
27. 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 chapter.
28. Floodplain Board: Means the Town Council of Superior at such times as they are engaged in the enforcement of this chapter after adoption of a resolution as provided in A.R.S. §48-3601 et. seq.
29. 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.
30. Floodplain Management Regulations: Means this chapter and other zoning chapters, subdivision regulations, building Codes, health regulations, special purpose chapters (such as grading and erosion control) and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.
31. 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.
32. 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.

33. 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 in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.
34. Flood-related erosion area management: Means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.
35. Floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway".
36. Floodway fringe: Is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.
37. Freeboard: Means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
38. 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.
39. Governing body: Is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.
40. Hardship: As related to Variances, means the exceptional hardship that would result from a failure to grant the requested variance. The governing body requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
41. Highest adjacent grade : Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
42. Historic Structure: Means any structure that is:
 - A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the

Interior as meeting the requirements for individual listing on the National Register.

- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.
43. Levee: Means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
44. 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.
45. Lowest floor: Means the lowest floor of the lowest enclosed area including basement (see "Basement" definition). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
46. 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 attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
47. 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.
48. Market Value: Shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost

estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

49. Mean sea level: Means, for purposes of the National Flood 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.
50. Mudslide: (i.e., mudflow) describes a condition where there is a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.
51. Mudslide (i.e., mudflow) area management: Means the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including, but not limited to, emergency preparedness plans, mudslide control works, and floodplain management regulations.
52. Mudslide (i.e., mudflow) prone area: Means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.
53. New construction: Means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
54. New manufactured home park or subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.
55. Obstruction: Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across, or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
56. One hundred year flood: Means the flood having a one percent chance of being equaled or exceeded in any given year (see "Base flood").
57. 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.

58. Program: Means the National Flood Insurance Program authorized by 42 U.S.C. 4001-478.
59. 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.
60. Recreational vehicle: Means a vehicle which is:
 - A. built on a single chassis;
 - B. 400 square feet or less when measured at the largest horizontal projection;
 - C. designed to be self-propelled or permanently towable by a light duty truck; and
 - D. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.
61. Regulatory flood elevation: Means an elevation one foot above the base flood elevation for a watercourse for which the base flood elevation has been determined and shall be as determined by the criteria developed by the director of water resources for all other watercourses.
62. Regulatory floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
63. 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 chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.
64. Repetitive Loss Structure: Means a structure, covered by a contract for flood insurance issued pursuant to the National Flood Insurance Act, that has incurred flood-related damage on two occasions during any 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.
65. Riverine: Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
66. Sheet flow area: - see "Area of shallow flooding".
67. 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, AO, A1-30, AE, A99 or AH.

68. Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
69. 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.
70. Substantial damage: Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
71. Substantial improvement: Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety Code specifications which have been identified by the local Code enforcement official and which are the minimum necessary to assure safe living conditions or
 - B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
72. Variance: Means a grant of relief from the requirements of this chapter which is warranted by special circumstances as required by this Chapter and permits construction in a manner that would otherwise be prohibited by this chapter.
73. 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 chapter is presumed to be in violation until such time as that documentation is provided.
74. Water surface elevation: Means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.
75. Watercourse: Means a lake, river, creek, stream, wash, arroyo, channel or other

topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

76. Watercourse master plan: Means a hydraulic plan for a watercourse that examines the cumulative impacts of existing development and future encroachment in the floodplain and future development in the watershed on potential flood damages, and establishes technical criteria for subsequent development so as to minimize potential flood damages for all flood events up to and including the one hundred-year flood.

Section 7-5-7 Lands to which this Article Applies

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

Section 7-5-8 Basis for Establishing the Areas of Special Flood Hazard

The area of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled "The Flood Insurance Study for Town of Superior dated November 1979 with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFM), dated May 1, 1980 and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the Floodplain Board by the Floodplain Administrator. The Board, within its area of jurisdiction shall delineate (or may by rule require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Federal Emergency Management Agency and the Director of Water Resources. The Flood Insurance Study, FIRMs and FBFM are on file at Town Hall, 150 N. Pine Street, Department of Planning.

Section 7-5-9 Compliance

All development of land, construction of residential, commercial or industrial structures or future development within delineated floodplain areas is subject to the terms of this chapter and other applicable regulations.

Section 7-5-10 Abrogation and Greater Restrictions

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

Section 7-5-11 Interpretation

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 7-5-7 Warning and Disclaimer of Liability

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

Section 7-5-13 Statutory Exemptions

1. In accordance with A.R.S. §48-3609 (H), unless expressly provided, this and any regulation adopted pursuant to this Article do not affect:
 - A. Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for twelve months or destroyed to the extent of fifty per cent of its value, as determined by a competent appraiser, any further use shall comply with this Article and Town Code.
 - B. Reasonable repair or alteration of property for the purposes for which the property was legally used on August 3, 1984, or any regulations affecting such property takes effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by fifty percent or more shall be either flood proofed or elevated to or above the regulatory flood elevation.
 - C. Reasonable repair of structures constructed with the written authorization required by A.R.S. §48-3613
 - D. Facilities constructed or installed pursuant to a certificate of environmental compatibility issued pursuant to title 40, chapter 2, Article 6.2 of Arizona Revised Statutes.
2. In accordance with A.R.S. §48-3613, written authorization shall not be required, nor shall the Floodplain Board prohibit:
 - A. The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse.
 - B. The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage to

adjoining land if the structure will not divert, retard or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by title 45, chapter 6 of Arizona Revised Statute.

- C. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations which will divert, retard or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the board pursuant to regulations adopted by the board under this Article.
 - D. Other construction if it is determined by the board that written authorization is unnecessary.
 - E. Any flood control district, county, Town, town, or other political subdivision from exercising powers granted to it under this Article.
 - F. The construction of streams, waterways, lakes and other auxiliary facilities in conjunction with development of public parks and recreation facilities by a public agency or political subdivision.
 - G. The construction and erection of poles, towers, foundations, support structures, guy wires, and other facilities related to power transmission as constructed by any utility whether a public service corporation or a political subdivision.
- 3. Before any construction authorized by Subsection B of this Section may begin, the responsible person must submit plans for the construction to the Board for review and comment.
 - 4. In addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this Section or regulations adopted pursuant to this Article. If a person is found to be in violation of this Section, the court shall require the violator to either comply with this Section if authorized by the board or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

Section 7-5-14 Declaration of Public Nuisance

Every new structure, building, fill, excavation or development located or maintained within any area of special flood hazard after August 8, 1973, in violation of this chapter is a public nuisance per se and may be abated, prevented or restrained by action of Pinal County or the Town of Superior.

Section 7-5-15 Abatement of Violations

Within thirty (30) days of discovery of a violation of this chapter, the Floodplain Administrator shall submit a report to the Floodplain Board which shall include all information available to the Floodplain Administrator which is pertinent to said violation. Within thirty (30) days of receipt of this report, the Floodplain Board shall either:

1. Take any necessary action to effect the abatement of such violation; or
2. Issue a variance to this chapter in accordance with the provisions of this Chapter; or
3. Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the Floodplain Administrator within 30 days of such order, and he shall submit an amended report to the Floodplain Board within 20 days. At their next regularly scheduled public meeting, the Floodplain Board shall either order the abatement of said violation or they shall grant a variance in accordance with the provisions of this Chapter; or
4. Submit to the Administrator of Federal Insurance Administration a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or chapter, pursuant to Section 1316 of the National Flood Insurance Act of 1968 as amended.

Section 7-5-16 Unlawful Acts

1. 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. Where the watercourse is a delineated floodplain, it is unlawful to excavate or build any structure affecting the flow of waters without securing written authorization of the Floodplain Board.
2. Any person violating the provisions of this Section shall be guilty of a civil violation, each day a violation continues shall be considered a separate offense.

Section 7-5-17 Establishment of Development Permit

A Development Permit shall be obtained before construction or development, including placement of manufactured homes, within any area of special flood hazard established by the provisions of § 7-5-7. Application for a Development Permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and 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:

1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO, elevation of existing highest adjacent natural grade and proposed elevation of lowest floor of all structures.

2. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood proofed;
3. Certification by a registered professional engineer or architect that the Flood proofing methods for any nonresidential structure meet the Flood proofing criteria in Section 7-5-29; and,
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 7-5-18 Designation of the Floodplain Administrator

The Planning/Zoning Administrator, and Town Engineer are hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accordance with its provisions. However, nothing contained herein shall be construed as a Town assumption of Pinal County's obligations for Flood Control pursuant to A.R.S. §48-3601 et. seq.

Section 7-5-19 Duties and Responsibilities of the Floodplain Administrator

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

1. Review all development permits to determine that:
 - A. The permit requirements of this chapter have been satisfied;
 - B. All other required state and federal permits have been obtained;
 - C. The site is reasonably safe from flooding.
 - D. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than one foot at any point.
2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 7-5-7, 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 this Article. Any such information shall be consistent with the requirements of the Federal Emergency Management Agency and the Director of Water Resources and shall be submitted to the Floodplain Board for adoption.
3. Obtain and maintain for public inspection and make available as needed for Flood Insurance Policies or effecting Increased Cost of Construction Coverage for repetitive loss structures:

- A. the certified elevation required in this Article;
 - B. the certification required in this Article;
 - C. the Flood proofing certification required in this Article; and
 - D. the certified elevation required in this Article.
 - E. Permit records for repair of flood-related damage to structures on a cumulative basis over the life of the structure.
4. Whenever a watercourse is to be altered or relocated:
- A. 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 through appropriate notification means;
 - B. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
5. 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.
6. 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 Town of Superior.
7. 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 this Article.
8. Take actions on violations of this chapter as required in Section 7-5-14 herein.
9. Notify the Administrator and director of water resources of acquisition by means of annexation, incorporation, or otherwise, of additional areas of jurisdiction.

Section 7-5-20 Standards of Construction

In all areas of special flood hazards the following standards are required:

1. Anchoring
 - A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - B. All manufactured homes shall meet the anchoring standards of Section 7-5-23 (B).
2. Construction Materials and Methods
 - A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - C. All new construction, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - D. Require within Zones AH or AO that adequate drainage paths around structures on slopes guide flood waters around and away from proposed or existing structures.
3. Elevation and Flood proofing
 - A. 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 7-5-1 (C) (3). Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
 - B. 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 7-5-1 (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.

- C. Nonresidential construction shall either be elevated in conformance with Section 7-5-1 (C) (1 or 2) or together with attendant utility and sanitary facilities:
 - i. be flood proofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. be certified by a registered professional engineer or architect that the standards of this Subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.

- D. Require, for all new construction and substantial improvements of non-residential structures, that fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria:
 - i. 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.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- E. Manufactured homes shall meet the above standards and also the standards in Section 7-5-5.

Section 7-5-21 Standards for Storage of Materials and Equipment

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

Section 7-5-22 Standards for Utilities

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

Section 7-5-23 Standards for Subdivisions

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

Section 7-5-24 Standards for Manufactured Homes

All manufactured homes that are placed or substantially improved shall:

1. Be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation; and
2. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and Local anchoring requirements for resisting wind forces.

Section 7-5-25 Standards for Recreational Vehicles

All recreational vehicles placed on site will either:

1. Be on site for fewer than 180 consecutive days, and be fully licensed and ready for highway use - a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or

2. Meet the permit requirements of Section 7-9-1 of this chapter and the elevation and anchoring requirements for manufactured homes in Section 7-5-23.

Section 7-5-26 Floodways

Located within areas of special flood hazard established in Section 7-5-7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the volume of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. 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.
2. If Section 7-5-7 is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 7-5-23.

Section 7-5-27 Flood Related Erosion-prone Area

1. The Floodplain Administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.
2. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
3. If a proposed development is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvements shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
4. Within Zone E on the Flood Insurance Rate Map, a setback is required for all new development from the lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated useful life of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

Section 7-5-28 Nature of Variances

The variance criteria set forth in this Section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the Town of Superior and Pinal County to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the regulatory flood elevation are so serious that variances from the flood elevation or from other requirements in the flood chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

Section 7-5-29 Appeal Board

1. The Floodplain Board of Pinal County Flood Control District shall hear and decide appeals and requests for variances from the requirements of this chapter.
2. The Floodplain Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.
3. In passing upon such applications, the Floodplain Board shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this chapter, and:
 - A. The danger that materials may be swept onto other lands to the injury of others;
 - B. The danger of life and property due to flooding or erosion damage;
 - C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - D. The importance of the services provided by the proposed facility to the community;
 - E. The necessity to the facility of a waterfront location, where applicable;
 - F. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - G. The compatibility of the proposed use with existing and anticipated development;

- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - I. The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
 - K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
4. Upon consideration of the factors of Subsection (C) of this Section and the purposes of this chapter, the Floodplain Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 5. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance coverage, and
 - B. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions under this chapter. Such notice will also state that the land upon which the variance is granted shall be ineligible for exchange of land pursuant to any flood relocation and land exchange program. A copy of the notice shall be recorded by the Floodplain Board in the office of the Pinal County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

6. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

Section 7-5-30 Conditions for Variances

1. 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 the procedures of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic

Places, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
 - A. A showing of good and sufficient cause;
 - B. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - C. A showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in this chapter in the definition of "Functionally Dependent Use"; and
 - D. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or chapters.

ARTICLE 7-6 DRILLING AND GEOPHYSICAL SURVEYS

- Section 7-6-1 Application of Article
- Section 7-6-2 Permit Required
- Section 7-6-3 Permit Application
- Section 7-6-4 Issuance of Permit
- Section 7-6-4 Business License Required
- Section 7-6-5 Violations - Penalty

Section 7-6-1 Application of Article

This Article shall apply to any drilling operation conducted from or upon the surface of any drill site within the boundaries of the Town and to any geophysical survey, including induced polarization and seismic surveys requiring the stringing of lines along or stationing of equipment upon the surface within the boundaries of the Town. A permit for any such drilling operation shall carry with it the right to conduct associated testing, logging, sealing, casing, plugging, perforating, sampling, and any other operation conducted in connection with the drilling operation.

Section 7-6-2 Permit Required

No person, partnership, association of persons, or corporation shall conduct any survey or

drilling operation as specified in this Article unless a valid unexpired permit, issued in accordance with the terms and provisions of this Article, has been obtained.

Section 7-6-3 Permit Application

- A. Each application for such permit shall be accompanied by an application filing fee in the sum of not less than one hundred (100) dollars which shall not be refundable. The fee shall be established by resolution of the Mayor and Council.

- B. The application shall contain the following:
 - 1. The name and address of the applicant.
 - 2. A description of the location of the proposed site together with a map or plat showing where the proposed work will be performed.
 - 3. The estimated time required for completion of the activity.
 - 4. In the event the operations under the permit require the use of public roads, streets or highways, the application shall contain a description of the location of such roads, streets and highways and a description of the manner of such use and the date and hours during which such use is contemplated.
 - 5. The hours during which the permitted operations are to be conducted.
 - 6. If the permittee intends to have the work contracted, the names and addresses of any such contractors.

- C. The application shall be accompanied by the following:
 - 1. A certificate evidencing that permittee has obtained liability and property damage insurance naming the Town, its officers and employees as additional insured, and in the amount of not less than three hundred thousand (\$300,000.00) dollars per accident.
 - 2. In the event the operations under the permit require the use or public roads, streets or highways, the application shall contain the evidence of approval by the Public Works Director of the Town for use of public roads and streets, and approval of the Arizona Highway Department when such operations include use of a state highway.
 - 3. An agreement whereunder the permittee agrees to indemnify and hold the Town and each officer and employee thereof harmless from liability for operations conducted by permittee or its contractors, including a covenant to defend.
 - 4. Permittee's statement that any requisite permissions have been obtained from the owners of any private property upon which such permitted operations are to be conducted or a statement that permittee possesses the legal right to conduct such operation upon such property.
 - 5. In the case operations are to be conducted upon any public road or street, an

agreement approved by the Public Works Director whereunder permittee agrees to repair or replace any damage to property of the Town, accompanied by a bond or other surety acceptable to the Town Attorney in a minimum amount of five thousand (\$5,000.00) dollars.

Section 7-6-4 Issuance of Permit

Upon compliance with the provisions of this ordinance and upon payment to the Town clerk of an amount set by resolution of the Mayor and Council the clerk shall issue a permit to the applicant; provided, however, that such permit shall restrict the number of hours during which the permitted operations are to be conducted to a period of not more than twelve (7) consecutive hours per day unless there is an express finding by the clerk that such restriction is not necessary to ensure the public health and safety of the citizens of the Town. Any permit so issued shall be for a period of three (3) months from issuance by the clerk and the permittee shall be entitled to renew and extend the permit for any number of three (3) month periods thereafter on payment to the clerk of a renewal fee in an amount established by Council resolution.

Section 7-6-4 Business License Required

Notwithstanding any provision of this Article each permittee and his contractor, if any, shall obtain a business license as provided in Article 8-1 of this Chapter.

Section 7-6-5 Violations - Penalty

Any person found guilty of violating any of the provisions of this Article shall be guilty of a civil violation punishable as provided ins Section 1-5-1(A). Each day a violation continues shall be a separate offense.